



## FRANCHISE DISCLOSURE DOCUMENT

TMH Worldwide, LLC  
A Delaware limited liability  
company 22 Sylvan Way  
Parsippany, New Jersey 07054 (800) 758-8999  
[www.wyndhamhotels.com/trademark](http://www.wyndhamhotels.com/trademark)

The member will operate a Trademark Collection guest lodging facility offering overnight accommodations and related services.

The total investment necessary to begin operation of a typical 100 room Trademark Collection hotel for a new construction project ranges from ~~\$7,750,885~~\$8,087,199 to ~~\$12,619,151~~\$12,854,531. The total investment necessary to begin operation of a typical 100 room Trademark Collection hotel if you already own a facility ranges from ~~\$189,991~~\$198,558 to ~~\$4,271,025~~\$4,409,581. Land acquisition costs are not included in these ranges. The above amounts include a range of ~~\$43,150~~\$43,400 to ~~\$68,725~~\$74,725 that must be paid to the Franchisor or its affiliate(s).

This Disclosure Document summarizes certain provisions of your membership 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, TMH Worldwide, LLC 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 the Development Department, TMH Worldwide, LLC, 22 Sylvan Way, Parsippany, NJ 07054 or call (800) 758- 8999.

The terms of your contract will govern your franchise relationship. Do not 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, D.C. 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: March 31, ~~2019 as amended January 10,~~ 2020.

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## 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 Exhibits E-1 and E-2.
<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 Exhibit D 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 Trademark Collection business 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 Trademark Collection franchisee?</b>	Item 20 or Exhibits E-1 and E-2 list 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 B.

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 franchise agreement requires you to resolve disputes with the franchisor by mediation, arbitration and/or litigation only in New Jersey. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate or litigate with the franchisor in New Jersey than in your own state.

2. [Spousal Liability. Your spouse must sign a document that makes your spouse liable for all financial obligations under the franchise agreement even though your spouse has no ownership interest in the franchise. This guarantee will place both your and your spouse's marital and personal assets, perhaps including your house, at risk if your franchise fails.](#)

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.

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT PURSUANT  
TO THE MICHIGAN FRANCHISE INVESTMENT LAW**

**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 a 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 a 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 franchise agreement 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 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 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 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 of 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:

(i) 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 sub-franchisor.

(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 any sums owing to the franchisor or to cure any default in the franchise 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 franchise 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 services.

**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 Section, 525 W. Ottawa Street, G. Mennen Williams Building, 1st Floor, Lansing, Michigan 48913, (517) 373-7117.**

#### TABLE OF CONTENTS

Item

Page

ITEM 1. THE FRANCHISOR AND ANY PARENTS, PREDECESSORS AND AFFILIATES

~~18~~ ITEM 2. BUSINESS EXPERIENCE

~~7~~14

ITEM 3. LITIGATION ..... ~~12~~18

ITEM 4. BANKRUPTCY ..... ~~17~~23

ITEM 5. INITIAL FEES ..... ~~18~~23

ITEM 6. OTHER FEES ..... ~~18~~26

ITEM 7. ESTIMATED INITIAL INVESTMENT ..... ~~31~~37

ITEM 8. RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES ..... ~~39~~46

ITEM 9. FRANCHISEE'S OBLIGATIONS ..... ~~42~~48

ITEM 10. FINANCING ..... ~~44~~51

ITEM 11. FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING

~~46~~53

ITEM 12. TERRITORY ..... ~~57~~65

ITEM 13. TRADEMARKS ..... ~~59~~66

ITEM 14. PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION ..... ~~61~~68

ITEM 15. OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS

~~62~~70

ITEM 16. RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL ..... ~~64~~70

ITEM 17. RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION ..... ~~65~~71

THE FRANCHISE RELATIONSHIP ..... ~~65~~71

ITEM 18. PUBLIC FIGURES ..... ~~71~~77

ITEM 19. FINANCIAL PERFORMANCE REPRESENTATIONS ..... ~~72~~77

ITEM 20. OUTLETS AND FRANCHISEE INFORMATION ..... ~~73~~81

ITEM 21. FINANCIAL STATEMENTS ..... ~~78~~85

ITEM 22. CONTRACTS ..... ~~79~~86

ITEM 23. RECEIPT ..... ~~80~~86

**Exhibits**

A State Addenda

- B Regulatory Authorities; Registered Agents for Service of Process
- C-1 Membership Agreement including ADA Certification Forms for New Construction Facilities (Pre-Construction and Post-Construction), Affiliation Fee Note, Development Incentive Note, Addendum for Electronic Funds Transfers, Personal Guaranty, Assignment and Assumption Agreement, State Addenda and Membership Application Signature Page
- C-2(a) SynXis Subscription Agreement
- C-2(b) Elavon Hosted Services Agreement for Hosted Gateway
- Services C-3 Oracle Master Agreement –SaaS Subscription
- Model OPERA
- C-4 Supplemental Services Agreement – SaaS Subscription Model OPERA
- SaaS C-5 Three Party Agreement / Lender Notification Agreement; Request Forms
- C-6 Termination and Release Agreement
- C-7 Signature Reservation Services
- Agreement C-8 Hotel Revenue Management Agreement
- [C-9 Hotel Connectivity Solutions Agreement](#)
- D Financial Statements and Guaranty of Performance of Wyndham Hotels & Resorts, Inc.
- E-1 List of Facilities in the United States as of December 31, ~~2018~~[2019](#)
- E-2 List of Facilities in the United States that Voluntarily or Involuntarily left the Trademark Collection System from January 1, ~~2018~~[2019](#) to December 31, ~~2018~~[2019](#) or that did not communicate with us during the ten week period preceding the date of the Disclosure Document
- F Tables of Contents for Standards of Operation and Design Manual and Wyndham Rewards Front Desk Guide
- G State Effective Dates / Acknowledgement of Receipt

## ITEM 1. THE FRANCHISOR AND ANY PARENTS, PREDECESSORS AND AFFILIATES

To simplify the language in this Disclosure Document, “we,” “our” or “us” means TMH Worldwide, LLC, the franchisor. “You” means the person or entity who buys the franchise / membership, the franchisee / member. If the franchisee / member is a corporation, partnership or other entity, “you” includes the entity’s owners.

**The Franchisor, its Parent and Affiliates.** We are a Delaware limited liability company, formed on January 26, 2017. We do not do business under any other name. We are a subsidiary of Wyndham Hotel Group, LLC, a Delaware limited liability company (“Wyndham Hotel Group”), which is owned by Wyndham Hotels & Resorts, Inc., a Delaware corporation (“Wyndham Hotels & Resorts”) or (“WHR”). WHR guarantees the performance of our obligations under the “Membership Agreements” we enter into with members.

WHR was created by virtue of a tax-free spin-off of the hotel and transient lodging businesses of Wyndham Worldwide Corporation (“Wyndham Worldwide”) on May 31, 2018. On August 2, 2017, Wyndham Worldwide announced its plan to separate its businesses into two publicly traded companies. Under the plan of separation, the hotel and transient lodging businesses of Wyndham Worldwide (operating as Wyndham Hotel Group) were spun-off into a standalone publicly traded hotel company, WHR. The remaining businesses of Wyndham Worldwide were renamed Wyndham Destinations, Inc., and continue to operate as a publicly traded timeshare and timeshare exchange company. On May 9, 2018, the Wyndham Worldwide Board of Directors approved the spin-off of WHR through the distribution of 100% of the common stock of WHR to shareholders of Wyndham Worldwide. The distributions occurred on May 31, 2018 to Wyndham Worldwide shareholders of record as of the close of business on May 18, 2018. On June 1, 2018, WHR began “regular way” trading on the New York Stock Exchange as a separate public company. Wyndham Hotel Group and its affiliate, Worldwide Sourcing Solutions, Inc. (“WSSI”), offer goods and services to our members and the franchisees of the Lodging Affiliates as defined below. See Items 5 and 8.

**Lodging Affiliates.** Wyndham Hotel Group directly and indirectly owns franchising subsidiaries in the lodging industry (the “Lodging Affiliates”). The Lodging Affiliates which offer franchises in the United States include Days Inns Worldwide, Inc. (“DIW”), Howard Johnson International, Inc. (“HJI”), Ramada Worldwide Inc. (“RWI”), Super 8 Worldwide Inc., which was formerly known as Super 8 Motels, Inc. (“Super 8” or “SWP”), La Quinta Franchising LLC (“LQF”), Travelodge Hotels, Inc. (“THI”), Wingate Inns International, Inc. (“WII”), Baymont Franchise Systems, Inc. (“BFS”), Microtel Inns and Suites Franchising, Inc. (“MISF”), TRYP Hotels Worldwide, Inc. (“TRYP Hotels” or “TRYP”), TRC Franchisor, Inc. (“TRC”), AmericInn International, LLC (“AMI”), and Hawthorn Suites Franchising, Inc. (“HSF”) which offer and support lodging system franchises under the Days Inn<sup>®</sup>, Howard Johnson<sup>®</sup>, Ramada<sup>®</sup>, Super 8<sup>®</sup>, La Quinta<sup>®</sup>, Travelodge<sup>®</sup> (~~North America~~[Americas](#) only), Wingate by Wyndham<sup>®</sup>, Baymont Inn & Suites<sup>®</sup>, Microtel Inn & Suites by Wyndham<sup>®</sup>, TRYP by Wyndham<sup>®</sup>, The Registry Collection Hotels<sup>®</sup>, AmericInn<sup>®</sup> and Hawthorn Suites by Wyndham<sup>®</sup> guest lodging facility systems, respectively. Another Lodging Affiliate, Wyndham Franchisor, LLC. (“WDF”), offers and supports franchises for upscale, full service and select service, Wyndham Grand<sup>®</sup>, Wyndham<sup>®</sup>,

and Wyndham

Garden<sup>®</sup> transient guest lodging facilities, respectively. The Lodging Affiliates do not own or operate any lodging facilities. Certain other subsidiaries of Wyndham Hotel Group manage hotels for third party owners under the Wyndham ([1413](#) hotels), Wyndham Grand ([89](#) hotels), Wyndham Garden (1 hotel), Hawthorn Suites by Wyndham ([1416](#) hotels), Dolce Hotels and Resorts ([108](#) hotels), La Quinta (~~314~~[271](#) hotels), and TRYP by Wyndham (~~1 hotel~~), ~~and Baymont Inn & Suites~~ (1 hotel) brands, and two subsidiaries - Wyndham Bonnet Creek Hotel, LLC and Rio Mar Resort - WHG Hotel Property, LLC - each own one of the above managed Wyndham Grand branded ~~property~~properties.<sup>1</sup>

**Certain Other Franchise and Travel Industry Affiliates.** The following chart outlines which affiliate offers and administers franchises and manages facilities under our Marks and those of the Lodging Affiliates outside of the United States, and, in the case of managed facilities, within and outside of the United States:

Region/Country	Franchise System	Franchisor
Canada	Baymont Inn & Suites Hawthorn Suites by Wyndham Howard Johnson La Quinta Microtel Inn & Suites by Wyndham Ramada Super 8 Trademark Collection TRYP by Wyndham Wingate by Wyndham Wyndham Garden Wyndham Wyndham Grand	Wyndham Hotel Group Canada, ULC (“WHG Canada”) or one of the Lodging Affiliates
All of Asia with the exception of China and Hong Kong	All brands with the exception of Travelodge <del>and TRYP by Wyndham</del>	Wyndham Hotel Asia Pacific Co. Limited (“WHAP”)
Hong Kong	All brands with the exception of Travelodge <del>and TRYP by Wyndham</del>	Wyndham Hotel Hong Kong Co. Limited (“WH Hong Kong”)
China	<del>Days Inn Microtel Inn &amp; Suites by Wyndham Ramada Wingate by Wyndham Wyndham Garden Wyndham Wyndham Grand</del> <u>All brands except Howard Johnson, Super 8 and Travelodge</u>	WHAP or Wyndham Hotel Management (Beijing) Co., Ltd.

<sup>1</sup> The brands and number of hotels managed by our affiliates listed above are current as of December 31, ~~2018~~[2019](#).

Australia & Pacific	Ramada  Wyndham Garden Wyndham Wyndham Grand  TRYP by Wyndham  Hawthorn Suites by Wyndham	Ramada International, Inc. (“RII”)  <del>WDF</del> <a href="#">Wyndham Hotels and Resorts, LLC</a>    TRYP <a href="#">or an affiliate</a>  HSF-
Most of Europe, Middle East & Africa with the exception of Saudi Arabia and Kenya	All brands with the exception of Travelodge <del>and TRYP by Wyndham</del>	Wyndham Hotel Group (UK) Limited (“WHG UK”) or Wyndham Hotel Group (UK) East Limited (“WHG UK East”)
Most of Europe, Middle East & Africa with the exception of Saudi Arabia and Kenya	<del>TRYP by Wyndham</del> Trademark <del>Hotel</del> Collection	<del>Wyndham Hotel Group Europe Limited (“WHG Europe”)</del> <a href="#">WHG UK</a>
Saudi Arabia	All brands with the exception of Travelodge	<del>WHG Caribbean Holdings, Inc. (“WHG Caribbean”)</del> <a href="#">RII, HJL, SWI or an affiliate</a>
Kenya	Ramada	RII
Latin America and the Caribbean	All brands except Dazzler and Esplendor	WHG Caribbean, RII or LQF
Latin America and the Caribbean	Dazzler and Esplendor	Wyndham Hotel Management de Argentina SRL (“WHMDA”)
<b>Region/Country</b>	<b>Managed System</b>	<b>Management Company</b>
US, Canada, & Europe	Dolce Hotels and Resorts	Hotels are managed by either a special purpose entity, wholly owned by Dolce International, Inc. or WHG Hotel Management, Inc. (“WHGHM”). Dolce International, Inc. and WHGHM are both wholly owned by Wyndham Hotel Group, LLC
US	Wyndham Grand Wyndham Wyndham Garden <a href="#">TRYP by Wyndham</a>	Wyndham Hotel Management, Inc. (“WHM”) or another affiliate
US	Hawthorn Suites by Wyndham	WHGHM Revere, LLC (“Revere”)
US	La Quinta	LQ Management L.L.C. (“LQ Management”)
<del>Latin American and South America</del>	<del>Dazzler Hotels Esplendor Boutique Hotels Wyndham Grand</del>	<del>An affiliate of Wyndham Hotel Group</del>
Great Britain	Ramada	WHG (Ireland) Hotels, U.C.
Qatar	Ramada Wyndham Grand	(“WHG Ireland”)
United Arab Emirates	Ramada  Wyndham	WHG Ireland  WHG UK

Bahrain Jordan Tanzania	Ramada	WHG UK
Saudi Arabia	Ramada	WHM
China	Days Inn Ramada Microtel Inn & Suites by Wyndham TRYP by Wyndham Wingate by Wyndham Wyndham Garden Wyndham Wyndham Grand	Wyndham Hotel Management (Beijing) Co., Ltd.
Indonesia	Days Inn Ramada	<del>PWHAP</del> <a href="#">WHAP</a>
Singapore	Days Inn Ramada	WHM
Malaysia	Ramada Days Inn Howard Johnson Wyndham	WHAP
Thailand	Days Inn Howard Johnson Wyndham	
Ethiopia	Ramada	WHG UK
Mexico, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama.	All brands	Wyndham Hotel Management de Mexico, <del>S-</del> <a href="#">S.</a> de R.L. de C.V. (“WHMDM”)
<del>Caribbean</del> , Belize, Guyana, Suriname, French Guiana	All brands	WHG Caribbean or RII
Colombia, Ecuador, Peru, Bolivia, Venezuela	All brands	Wyndham Hotel Management de Colombia, S.A.S. (“WHMDC”)
Brazil	All brands	<del>W</del> <a href="#">Wyndham</a> <a href="#">Wyndham</a> Hotel Management do Brasil, Ltda. (“WHMDB”)
Argentina, Chile, Uruguay, Paraguay	All brands	WHMDA
<a href="#">Rest of Latin American and the Caribbean</a>	<a href="#">Esplendor</a> <a href="#">Dazzler</a> <a href="#">Wyndham Grand</a>	<a href="#">WHMDA</a>

In November 2016, Wyndham Hotel Group, through its subsidiary Wyndham Asia Caribbean Holdings, Ltd., acquired 100% of the share stock of Fen International Corp. (“Fen”). Fen and its subsidiaries collectively manage [2221](#) hotels in Argentina, Uruguay, Paraguay, Costa Rica and Peru under the Esplendor<sup>®</sup> and Dazzler<sup>®</sup> brands. As of December 31, ~~2018~~ [2019](#), WHM,

WHGHM, LQ Management or another affiliate provided property management services to [440394](#) hotels associated with either ~~Baymont~~, Days Inn, Dazzler Hotels, Dolce Hotels and Resorts, Esplendor ~~Boutique Hotels~~, Hawthorn Suites by Wyndham, La Quinta, Ramada, [Trademark Collection](#), TRYP by Wyndham, Wingate by Wyndham, Wyndham Grand, Wyndham, or Wyndham Garden brands around the globe.

The principal business address of us, WHR, Wyndham Hotel Group, the Lodging Affiliates, WHG Caribbean, WHG Canada, RII, WHM, WHGHM, LQ Management, Revere, and WSSI is 22 Sylvan Way, Parsippany, New Jersey 07054. The principal business address for WHG Europe, WHG UK, WHG UK East, and WHG Ireland is The Triangle, 5-17 Hammersmith Grove, London W6 0LG England. The principal business address of [WHWHAP](#) Hong Kong is 18th Floor, Edinburgh Tower, The Landmark, 15 Queen's Road Central, Hong Kong. The principal business address for WH Hong Kong is 26<sup>th</sup> Floor, Three Exchange Square, 8 Connaught Place, Central, Hong Kong. The principal business address of WHAP in Singapore is 3 Phillip Street, #17-04 Royal Group Building, Singapore. The principal business address of WHAP in China is 26F, K. Wah Center, 1010 Huai Hai Rd (M), Shanghai 200031, China. The principal business address for WHMDB is Al Santos 2300 Room 52-Cerqueira Cesar, São Paulo/SP-CEP:, 01418-200 Brazil.

The principal address for WHMDM is Blvd. Manuel Avila Camacho 118 piso 24 Lomas de Chapultepec, Miguel Hidalgo CDMX, [Mexico](#) 11000. The principal address of WHMDA is Esmeralda 950, piso 20°, Buenos Aires City, [Argentina](#) Zip Code: C1007ABL. The principal address of WHMDC is Calle 70A, 4 – 41, Bogotá DC, Colombia, Zip Code 3462011. The principal business address for WHG Australia Pty Ltd. is Unit 11, 11 Karp Court, Bundall, QLD 4217, Australia . The principal business address for Wyndham Hotel Management (Beijing) Co., Ltd. is Room 906C East Ocean Centre, No. 24A Jianguomenwai Street, Chaoyang District, Beijing, China 100022. Our agent for service of process is Corporate Creations Network Inc., 811 Church Road #105, Cherry Hill, NJ 08002. Our agents for service of process are disclosed in Exhibit B.

**Our Business and the Trademark Collection.** We own the proprietary Trademark Collection “System” providing transient guest lodging services to the public, including certain trade names, service marks and other commercial symbols (the “Marks”). We offer and sell memberships in the Trademark Collection and the Trademark<sup>®</sup> Collection by Wyndham “Chain” guest lodging facilities. We do not own, operate or manage any Trademark Collection Chain or other lodging facility in the U.S. We are not engaged in any other business.

Under the Membership Agreement (found as Exhibit C-1 to this Disclosure Document), we offer you, if you qualify, a membership to operate a Trademark Collection Chain guest lodging facility (a “Chain Facility” or “Facility”) at a single, defined location. The Chain Facility will utilize the Mark that we assign to it and the System.

The Trademark Collection is a new, soft-branded collection of hotels that we intend to locate in key business and vacation destinations around the world. A Trademark Collection Chain Facility will offer unique, attractive accommodations with a flexible approach to food and beverage, fitness amenities and meeting space at mid to upper-mid market rates. It has a strong independent or historic presence in its local market. A Trademark Collection Chain Facility will retain its existing name, or adopt its own name from opening, followed by the words “a Trademark Collection by Wyndham” for marketing and any signage purposes.

**The Hospitality Industry.** The hospitality industry is highly competitive. Chain Facilities compete with all types of facilities that offer transient guest lodging to the public. The primary competition on a nationwide basis is from lodging establishments affiliated with other major lodging chains. Your Facility may also compete with franchises of the Lodging Affiliates. Your ability to compete in your market will depend in large part upon your geographic area, specific site location, the Facility's condition, general economic conditions and the capabilities of your management and service team. Affiliation with us does not guarantee that you will be successful or profitable in your business operation.

**Industry Specific Laws.** You must comply with a number of federal, state and local laws and regulations which apply to businesses generally and to the construction and operation of hotels. These include environmental laws and those relating to zoning and construction, permits and licensing; public accommodations and accessibility by persons with disabilities; labor; occupational safety; fire safety; health and food storage, preparation and service; privacy and data security; and laws regulating the posting of hotel room rates and the registration and identification of guests. In addition to these laws, laws of general application may have special relevance to hotels. For example, Dram Shop laws may create liability for serving alcoholic beverages to intoxicated persons. Your business is subject to state and federal regulations that allow the government to restrict travel and/or require businesses to close during state or national emergencies. Because your business is operated as a destination to which your customers must travel, your business can be affected by such orders more than others. As of the date of this Disclosure Document, travel restrictions have been implemented by the federal government and most state governments in response to the novel strain of the coronavirus (COVID-19) a global pandemic, and several state and local governments have ordered business closures. Therefore, the COVID-19 pandemic may negatively impact our future operations and that of our franchisees, which could result in a material impact to our future financial condition, results of operations, and cash flows, as well as that of our franchisees. Consult your attorney for more information on these laws.

**Business Experience of Us, the Lodging Affiliates and their Predecessors.** We have been offering memberships for Chain Facilities since May 2017. We are not engaged in any activities other than offering memberships for Trademark Collection Chain Facilities and related products and services as described in this Disclosure Document. An affiliate, WHR Licensor, LLC, is currently party to a number of short-term, limited purpose distribution agreements with certain third party guest lodging facilities. Those facilities may be identified using the Marks on certain distribution channels as described in the distribution agreements but the facilities are not subject to a franchise or membership agreement and are not considered franchisees or members of the Chain. The Lodging Affiliates have been offering licenses or franchises for lodging facilities in the United States (including the continental United States, Alaska, Hawaii, and Puerto Rico) since the following dates:

Affiliate	Began Franchising	Predecessor Began Franchising	Number of Franchised Facilities in U.S. as of December 31, <del>2018</del> 2019
AMI	1994	-	<del>204</del> 205
BFS	2006	2004	<del>508</del> 521

DIW	1992	1972	<del>1,456</del> <u>1,432</u>
HSF	1996	1986	87
HJI	1990	1954	<del>188</del> <u>174</u>
LQF	2003	1968	<del>584</del> <u>640</u>
MISF	1995	1988	<del>306</del> <u>303</u>
RWI	1989	1954	<del>335</del> <u>341</u>
SWI	1975	-	<del>1,590</del> <u>1,551</u>
THI	1996	1966	<del>337</del> <u>349</u>
TRC	2017	-	0
TRYP	2011	2000	8
WII	1998	1995	<del>154</del> <u>169</u>
WDF	2018	2005	<del>98</del> <u>95</u>

We have not engaged in or offered memberships for business other than transient guest lodging facilities and related restaurants. The Lodging Affiliates have never offered franchises in businesses other than guest lodging facilities and related restaurants.

## ITEM 2. BUSINESS EXPERIENCE

President and Chief Executive Officer: Geoff Ballotti

Mr. Ballotti has served as President and Chief Executive Officer of WHR since October 2017, and of Wyndham Hotel Group since March 2014. He holds similar positions with us and the Lodging Affiliates.

Manager, Executive Vice President, General Counsel and Secretary: Paul F. Cash

Mr. Cash has served as our Manager since October 2017 and as Executive Vice President, General Counsel and Secretary of WHR and Wyndham Hotel Group since October 2017. He holds similar positions with us and the Lodging Affiliates. In previous roles with our former affiliates, he served as Executive Vice President, General Counsel and Secretary for Wyndham Destination Network from March 2011 through September 2017.

Manager, Executive Vice President and Chief Operating Officer: Robert Loewen

Mr. Loewen has served as our Manager since January 2017 and as Chief Operating Officer of WHR and Wyndham Hotel Group since October 2017 and April 2013, respectively. He holds similar positions with us and the Lodging Affiliates. In previous roles with Wyndham Hotel Group or its affiliates, he served as Chief Financial Officer from April 2002 through April 2013.

Manager, Senior Vice President and Chief Accounting Officer: Nicola Rossi

Mr. Rossi has served as our Manager since January 2017 and as Senior Vice President and Chief Accounting Officer of WHR and Wyndham Hotel Group since October 2017. He holds similar positions with us and the Lodging Affiliates. In previous roles with our former affiliates, Mr. Rossi served as Senior Vice President and Chief Accounting Officer for Wyndham Worldwide

from July 2006 until May 2018.

Executive Vice President and Chief ~~Global Development Officer~~: Tom Barber

~~Mr. Barber has served as Executive Vice President and Chief Global Development Officer of WHR and Wyndham Hotel Group since October 2017. He holds similar positions with us and the Lodging Affiliates. In previous roles with our former affiliates, he served as Senior Vice President, Mergers and Acquisitions and Operational Excellence for Wyndham Worldwide from January 2012 until May 2018.~~

~~Executive Vice President and Chief~~ Administrative ~~Office~~ Officer: Mary Falvey

Ms. Falvey has served as Executive Vice President and Chief Administrative Officer of WHR and Wyndham Hotel Group since October 2017 and August 2017, respectively. In previous roles with our former affiliates, she served as Executive Vice President and Chief Human Resources Officer for Wyndham Worldwide from July 2006 through May 2018.

Executive Vice President and Chief Financial Officer: Michele Allen

Ms. Allen has served as Executive Vice President and Chief Financial Officer of WHR and Wyndham Hotel Group since December 3, 2019. She holds similar positions with us and the Lodging Affiliates. In previous roles with WHR or its affiliates, Ms. Allen served as Executive Vice President, Financial Planning & Analysis and Treasurer of WHR, Wyndham Hotel Group and us from January 2019 through November 2019, and as Senior Vice President, Financial Planning & Analysis and Treasurer of WHR, Wyndham Hotel Group and us from June 2018 through December 2018. Before then, she served as Senior Vice President, Financial Planning & Analysis for Wyndham Worldwide from April 2015 until May 2018, and Senior Vice President, Financial Planning & Analysis for Wyndham Hotel Group from March 2012 until March 2015.

Executive Vice President and Chief Marketing Officer: Lisa Checchio

Ms. Checchio has served as Executive Vice President and Chief Marketing Officer of WHR and Wyndham Hotel Group since January 2019. In this role, Ms. Checchio oversees the planning, development and execution of the Marketing, Advertising, Loyalty, and Revenue Generation initiatives for us and the Lodging Affiliates. In previous roles with Wyndham Hotel Group or its affiliates, Ms. Checchio served as Senior Vice President and Chief Marketing Officer from May 2018 until January 2019, Senior Vice President, Global Brands from February 2017 until May 2018 and Vice President, Brand Marketing from August 2015 until February 2017. Before then, she served as Director, Brand Marketing and Advertising of JetBlue Airways from July 2004 until August 2015.

~~Executive Vice President — Chief Corporate Social Responsibility Officer: Patricia (Patti) Lee~~

~~Ms. Lee has served as Executive Vice President, Organizational Development and Chief Corporate Social Responsibility Officer of WHR and Wyndham Hotel Group since February 2019. She holds similar positions with us and the Lodging Affiliates. In previous roles with our former affiliates, she served as Senior Vice President, Organizational Development and Chief Corporate Social Responsibility Officer of WHR and Wyndham Hotel Group from June 2018 until February 2019.~~

~~and Senior Vice President, Human Resources and Chief Diversity Officer for Wyndham Worldwide from March 2004 through May 2018.~~

Chief Information Officer: Scott Strickland

Mr. Strickland has served as Chief Information Officer of Wyndham Hotel Group since March 2017, and of WHR since May 2018. In this role, Mr. Strickland oversees information technology strategy and systems for us and the Lodging Affiliates. Before then, Mr. Strickland served as President for D&M Holdings US, Inc. from November 2011 until March 2017.

~~Group Vice President~~

Executive Vice President – Loyalty and Revenue Optimization: Eliot Hamlish

Mr. Hamlish has served as Executive Vice President, Loyalty and Revenue Optimization of Wyndham Hotel Group since February 2020. In this role, Mr. Hamlish oversees the Wyndham Rewards Loyalty and Partnership programs, global distribution system connections and revenue management for us and the Lodging Affiliates. In previous roles with Wyndham Hotel Group or its affiliates, Mr. Hamlish served as Senior Vice President, Worldwide Loyalty and Partnerships from January 2019 until February 2020, Vice President, Worldwide Loyalty and Partnerships from August 2017 until January 2019, Vice President, Sales Operations and Innovation from October 2016 through August 2017, and Vice President of Sales Innovation from June 2016 until October 2016. Before then, he served as Director, Sales Strategy and Operations with Starwood Hotels and Resorts from April 2013 until May 2016.

Senior Vice President – Global Sales: Carol Lynch

Ms. Lynch has served as ~~Group~~Senior Vice President, Global Sales of Wyndham Hotel Group since ~~November 2019~~February 2020. In this role, Ms. Lynch oversees the North America Global and Field sales teams for us and the Lodging Affiliates. In previous roles with Wyndham Hotel Group or its affiliates, Ms. Lynch held the position of Group Vice President, Global Sales from November 2019 until February 2020, Vice President Global Sales from October 2016 until November 2019, and Senior Director, Global Sales from December 2015 until October 2016. Before then, Ms. Lynch served as Vice President, Planner Communications and Marketing for Elite Meetings International/Cvent from November 2014 until December 2015.

Senior Vice President – Global Contact Centers: Kevin Dunne

Mr. Dunne has served as Senior Vice President, Global Contact Centers of Wyndham Hotel Group since June 2018. In this role, Mr. Dunne oversees the Global Contact Centers for us and the Lodging Affiliates. In previous roles with Wyndham Hotel Group or its affiliates, Mr. Dunne held the position of Vice President, Global Contact Centers from February 2016 until June 2018. Before then, Mr. Dunne served as Senior Vice President for RBS Citizens from February 2012 until February 2016.

Brand Leader: Leo Danese

~~Senior Vice President – Worldwide Loyalty and Partnerships: Eliot Hamlish~~

~~Mr. Hamlish Danese has served as Senior Vice President, Worldwide Loyalty and Partnerships of Wyndham Hotel Group since January 2019. In this role, Mr. Hamlish oversees the Wyndham Rewards Loyalty and Partnership programs for us and the Lodging Affiliates our Brand Leader since April 2020. In previous roles with Wyndham Hotel Group or its affiliates, Mr. Hamlish he served as Vice President, Worldwide Loyalty and Partnerships from August 2017 until January 2019, Vice President, Sales Operations and Innovation from October 2016 through August 2017, and Vice President of Sales Innovation from June 2016 until October 2016. Before then, he served as Director, Sales Strategy and Brand Operations with Starwood Hotels and Resorts from April 2013 until May 2016.~~

~~Executive Vice President – Global Distribution and Revenue Management: Tammy Peter~~

~~Ms. Peter has served as Executive Vice President, Global Distribution and Revenue Management of Wyndham Hotel Group since March 2019. In this role, Ms. Peter oversees global distribution system connections and revenue management for us and the Lodging Affiliates. In previous roles with Wyndham Hotel Group or its affiliates, Ms. Peter served as Senior Vice President, Global Distribution and Revenue Management for us from January May 2018 until March 2019, Vice President, Distribution April 2020, and as Director, Financial Planning & Analysis, from April 2015 until January 2018, Vice President, Hotel Marketing 2016 through May 2018. Before then, Mr. Danese served as Manager, Global Brands & Commercial Services Finance for Hilton Worldwide Holdings, Inc., from March 2015 until April 2014 until April 2015 and Vice President Reservation System Strategy from February 2010 until April 2014 2016.~~

~~Group Vice President – Brand Operations: Greg Giordano~~

~~Mr. Giordano has served as our Group Vice President, Brand Operations since November 2019. Mr. Giordano has also served as Group Vice President, Brand Operations for the Ramada brand since November 2019. In previous roles with Wyndham Hotel Group or its affiliates, Mr. Giordano served as our Vice President, Brand Operations from April 2017 until November 2019, Vice President, Brand Operations for the Ramada brand from January 2019 until November 2019, Vice President, Brand Operations for the Baymont Inn & Suites brand from February 2015 through December 2018, Vice President, Brand Operations for the Microtel Inns & Suites by Wyndham brand from November 2013 through January 2015 and Senior Director of Operations and Support from June 2007 until November 2013.~~

~~Executive Vice President – Franchise Services: Michael Piccola~~

~~Mr. Piccola has served as Executive Vice President, Franchise Services of Wyndham Hotel Group since November 2019. He holds similar positions with us and the Lodging Affiliates. In previous roles with Wyndham Hotel Group or its affiliates, he served as Senior Vice President, Franchise Administration and Compliance from March 2017 until November 2019, Senior Vice President, Franchise Administration, Compliance, Retention and Relicensing from October 2015 until March 2017, and the Senior Vice President, Franchise Administration and Compliance from April 2013 until October 2015.~~

~~Group Vice President – Franchise Operations and Quality: Tracy Ripa~~

~~Ms. Ripa has served as Group Vice President, Franchise Operations and Quality of Wyndham Hotel Group since October 2018. She holds similar positions with us and the Lodging Affiliates.~~

In previous roles with Wyndham Hotel Group or its affiliates, she served as Vice President, Franchise Quality from January 2016 until October 2018, and Senior Director, Franchise Quality from March 2012 until January 2016.

Vice President – Hotel Integration: Melissa Butler

Ms. Butler has served as Vice President, Hotel Integration of Wyndham Hotel Group since August 2018. She holds similar positions with us and the Lodging Affiliates. In previous roles with Wyndham Hotel Group or its affiliates, Ms. Butler served as Senior Director, Hotel Integration from October 2012 until August 2018.

Vice President – Training and Development: Melissa DiBlasio

Ms. DiBlasio has served as Vice President, Training and Development of Wyndham Hotel Group since December 2019. She holds similar positions with us and the Lodging Affiliates. In previous roles with Wyndham Hotel Group or its affiliates, she served as Senior Director, Learning and Development from July 2018 until December 2018, and Director, Learning and Development from September 2014 through July 2018.

Executive Vice President and Chief Development Officer: Carl (Chip) Ohlsson

Mr. Ohlsson has served as Executive Vice President, Chief Development Officer of Wyndham Hotel Group since October 2015. He holds similar positions with us and the Lodging Affiliates. Before then, he served as Vice President, North America of Starwood Hotels and Resorts from February 2006 until October 2015.

Senior Vice President – Franchise Sales and Development: Kevin Brickner

Mr. Brickner has served as Senior Vice President, Franchise Sales and Development of Wyndham Hotel Group since April 2015. He holds similar positions with us and the Lodging Affiliates. In previous roles with Wyndham Hotel Group or its affiliates, Mr. Brickner served as Regional Vice President, Franchise Sales and Development from March 2008 until April 2015.

Senior Vice President – Franchise Sales and Development: David Wilner

Mr. Wilner has served as Senior Vice President of Franchise Sales and Development of Wyndham Hotel Group since May 2018. He holds similar positions with us and the Lodging Affiliates. Before then, he served as Senior Vice President of Development of LQ Management from July 2011 through May 2018.

Senior Vice President – Franchise Sales and Development: Shane Platt

Mr. Platt has served as Senior Vice President of Franchise Sales and Development of Wyndham Hotel Group since January 2019. He holds similar positions with us and the Lodging Affiliates. Before then, Mr. Platt served as Managing Director of Development for Best Western International from August 2016 until January 2019 and Vice President, Sales for Choice Hotels International, Inc. from December 2003 until August 2016.

Senior Vice President – Franchise Sales and Development: Michael Woodward

Mr. Woodward has served as Senior Vice President of Franchise Sales and Development of Wyndham Hotel Group since July 2019. He holds similar positions with us and the Lodging Affiliates. Before then, Mr. Woodward served as Regional Vice President, Franchise Development from September 2014 until July 2019 and Director, Franchise Development from January 2007 until September 2014.

~~Senior Vice President – Franchise Sales and Development: John (Travis) Miller~~

~~Mr. Miller has served as Senior Vice President of Franchise Sales and Development of Wyndham Hotel Group since July 2019. He holds similar positions with us and the Lodging Affiliates. Before then, Mr. Miller served as Regional Vice President, Franchise Development from November 2015 until July 2019 and served as Senior Vice President, Franchise Development for St. Gregory Development from January 2014 until November 2015.~~

Senior Vice President – Design and Construction: Krishna Paliwal

Mr. Paliwal has served as Senior Vice President, Design and Construction of Wyndham Hotel Group since June 2018. He holds similar positions with us and the Lodging Affiliates. He has also served as President of the La Quinta brand since June 2019. Before then, Mr. Paliwal served as Senior Vice President Design and Construction for LQ Management from February 2008 through May 2018.

Vice President – Retention and Relicensing: Shilpan Patel

Mr. Patel has served as Vice President, Retention and Relicensing of Wyndham Hotel Group since January 2016. He holds similar positions with us and the Lodging Affiliates. He has also served as President Brand Leader of the La Quinta AmericInn brand since June 2019 March 2020. In previous roles with Wyndham Hotel Group or its affiliates Mr. Patel served as Director, Retention and Relicensing from October 2014 through December 2015, and Director, International Finance from December 2010 until October 2014.

Except as otherwise indicated in this Item, each of the above persons, with the exception of Michael Woodward, ~~Travis Miller~~, Krishna Paliwal, Shane Platt, and David Wilner, is based in our Parsippany, NJ offices while employed by us, the Lodging Affiliates, WHR, or Wyndham Hotel Group. Michael Woodward is based in Chicago, IL, ~~Travis Miller is based in Atlanta, GA,~~ and Shane Platt, David Wilner, and Krishna Paliwal are all based in Irving, TX.

### ITEM 3. LITIGATION<sup>1</sup>

#### Pending Litigation Against the Franchisor

None.

<sup>1</sup> References to Wyndham Hotels and Resorts, LLC in this Item 3 mean the predecessor franchisor to the Wyndham Franchisor, LLC Lodging Affiliate and not our ultimate parent, Wyndham Hotels & Resorts, Inc.

## Pending Litigation Against the Lodging Affiliates

~~Thomas Luca, Jr. v. Wyndham Worldwide Corporation, et al., United States District Court for the Western District of Pennsylvania (Case 2:16-cv-00746-MRH). On June 6, 2016, Plaintiff Thomas Luca, Jr. filed a class action lawsuit against defendants Wyndham Worldwide, Wyndham Hotel Group, Wyndham Hotels and Resorts, LLC and Wyndham Hotel Management, Inc. (the “Wyndham Entities”). Plaintiff purports to bring the complaint on behalf of himself and: (i) as to resort fees, all United States citizens who have booked a hotel room through the Wyndham Entities’ websites within the applicable statute of limitations and were charged one or more resort fees; and (ii) as to the Terms of Use provision, all United States citizens who have booked a hotel room through the Wyndham Entities’ websites within the applicable statute of limitations. Plaintiff alleges violations of the New Jersey Consumer Fraud Act, through alleged misleading charging of resort fees, and violations of the New Jersey Truth in Consumer Contract, Warranty and Notice Act (“TCCWNA”), through an allegedly unlawful Terms of Use provision on the Wyndham Entities’ websites. On August 15, 2016, the Wyndham Entities filed motions to dismiss, and on February 15, 2017, the Court granted the motions to dismiss of Wyndham Worldwide and Wyndham Hotel Management, Inc., leaving Wyndham Hotel Group and Wyndham Hotels and Resorts, LLC as parties. Plaintiff filed a motion for class certification on October 15, 2018, which the remaining Wyndham Entities opposed on December 14, 2018, and is currently pending. On January 16, 2019, the Court dismissed the TCCWNA claim from the case. Wyndham Hotel Group and Wyndham Hotels and Resorts, LLC entered into a settlement agreement with Plaintiff whereby a class was certified for settlement purposes and eligible class members will receive either \$22 or 2,200 Wyndham Rewards points, and Wyndham will make certain display changes. The Court granted preliminary approval on October 18, 2019. A final approval hearing is scheduled for February 21, 2020.~~

~~Norma Knuth v. Wyndham Worldwide Corporation, et al., (Court of Queen’s Bench for Saskatchewan, Judicial Centre of Regina, QBG-2650/2014). On December 5, 2014, Plaintiff Norma Knuth filed a class action suit as a representative of all “persons, corporations, and entities, resident or situated in Canada . . . that paid a “Destination Marketing Fee” to a hotel in Canada owned, operated, or managed by one of the Defendantsdefendants.” Plaintiff named Wyndham Worldwide, Wyndham Hotel Group, Days Inns Worldwide, Inc., Ramada Worldwide Inc., Super 8 Worldwide, Inc., Travelodge Hotels, Inc., and Wingate Inns International, Inc. (the “Wyndham Entities”), as well as several other hotel companies. Plaintiff claims that hotels in Saskatchewan and elsewhere in Canada have been charging a Destination Marketing Fee of 3% or 4% for various marketing fees that they should not be passing along to consumers. Plaintiff further alleges that hotel guests are not aware of the charge and are under no obligation to pay it, and that the name Destination Marketing Fee was intended to make guests believe it is a special government tax or fee. Plaintiff alleges each of the defendants owns, operates or manages the hotel which collects the fee. The causes of action are (i) violation of the Consumer Protection Act, (ii) negligence, (iii) unjust enrichment, and (iv) waiver of tort. Plaintiff seeks restitution in the amount of \$403 million, general damages, punitive damages and interest. Plaintiff filed an Amended Statement of Claim on May 29, 2015, and a Second Amended Statement of Claim on December 14, 2015. The Wyndham Entities intend to defend the case vigorously.~~

Karen Tichy v. Hyatt Hotels Corp., et al.; (United States District Court for the Northern District of Illinois, (Case 1:18-cv-01959). On March 23, 2018, Plaintiff Karen Tichy filed a class action lawsuit against numerous hotel industry companies, including Wyndham Worldwide. On May 23, 2018, Plaintiffs filed an amended complaint, and substituted Wyndham Hotel Group for Wyndham Worldwide. Plaintiff alleges a per se violation of the Sherman Antitrust Act (in the form of bid rigging and a group boycott), and in the alternative, a violation of the Sherman Act by unreasonably restraining trade among 60% of the market for the online sale of hotel rooms in connection with alleged arrangements between defendants, and between defendants and certain OTAs, to eliminate competitive bidding for branded keywords in connection with advertising. Specifically, plaintiff has alleged that each of the defendants agreed to refrain from using online advertising methods to compete for consumers, by preventing competitors from bidding for online advertising that uses competitors' brand names. The proposed class consists of "all persons throughout the United States who during the period January 1, 2015, through the present, paid for a room reserved from any OTA or Defendants' online websites." Defendants filed a joint motion to dismiss on June 22, 2018. ~~The motion is fully briefed and pending, which was denied on March 21, 2019.~~ Wyndham Hotel Group intends to defend the case vigorously.

Travelpass Group, LLC, Partner Fusion, Inc. and Reservation Counter, LLC v. Caesars Entertainment Corporation., et al.; (United States District Court for the Eastern District of Texas, (Case 5:18-cv-00153-RWS-CMC). On December 6, 2018, Plaintiffs filed an action against ~~defendants Caesars Entertainment Corporation, Choice Hotels International, Inc., Hilton Domestic Operating Company, Inc., Hyatt Hotels Corporation, Marriott International, Inc., Red Roof Inns, Inc., Six Continents Hotels, Inc. and~~ numerous hotel industry companies, including Wyndham Hotel Group, LLC. Plaintiff Travelpass Group and its predecessor or related entities, Partner Fusion and Reservation Counter, Plaintiffs are "downstream" online travel agencies that allege they market defendants' hotels online by bidding on branded keywords in auctions conducted by online search engines. Plaintiffs allege a per se violation of the Sherman Antitrust Act (in the form of bid rigging and a group boycott), as well as other violations of the ~~Sharman~~ Sherman Antitrust Act and the Utah Antitrust Act and tortious interference with prospective business relations in connection with alleged arrangements between ~~Defendants~~ defendants, and between ~~Defendants~~ defendants certain and OTAs, to eliminate competitive bidding for branded keywords in connection with advertising. Specifically, ~~Plaintiff has~~ plaintiffs have alleged that each of the ~~Defendants~~ defendants agreed to refrain from using online advertising methods to compete for consumers, by preventing competitors, including ~~Plaintiffs~~ plaintiffs, from bidding for online advertising that uses competitors' brand names. Defendants filed a ~~Joint Motion to Transfer Venue~~ joint motion to transfer venue on February 5, 2019, which was denied on August 29, 2019, as well as a ~~Joint Motion~~ joint motion to ~~Dismiss~~ dismiss on February 7, 2019, which was denied on September 27, 2019. Trial is scheduled for April 26, 2021. Wyndham Hotel Group intends to defend the case vigorously.

Lancs Hospitality LLC, et al. v. Days Inns Worldwide, Inc., et al., Superior Court of New Jersey, Law Division, Morris County (Docket No. MRS-L-001730-19). On August 13, 2019, former franchisee entities Lancs Hospitality LLC, S Boston Hospitality, LLC, HR Penn, LLC, and RHR Wildwood 423, LLC, along with their corresponding guarantors, Urjita P. Bhoola, Hemlata R. Jariwala, Rajendra Jariwala, Guarang Jariwala, and Abhishek Jariwala, (collectively, the "Plaintiffs") jointly filed a complaint against Days Inns Worldwide, Inc., Ramada Worldwide Inc.,

and Howard Johnson International, Inc. (collectively, the “Wyndham Entities”) in the Superior Court of New Jersey, Morris County, relating to four franchise agreements with the Wyndham Entities for the operation of four franchised guest lodging facilities. The suit asserts various allegations, including: (i) violation of the NJ Franchise Practices Act for constructive termination without good cause and imposing unreasonable standards of performance (as to Howard Johnson International, Inc., only); (2) breach of contract/breach of the implied covenant of good faith and fair dealing; (3) violation of the Virginia Retail Franchising Act for constructive termination without reasonable cause and using undue influence to induce plaintiff S Boston Hospitality, LLC to terminate its franchise agreement (as to Days Inns Worldwide, Inc., only). Plaintiffs seek compensatory, consequential, and punitive damages, interest, attorneys’ fees, and costs. Plaintiffs also seek a declaratory judgment against the Wyndham Entities stating that due to the breach of contracts, the subject guaranties should be rescinded and Plaintiffs should have no liability under the subject franchise agreements. The Wyndham Entities filed counterclaims under the four franchise agreements for breach of contract, seeking liquidated damages, or in the alternative, actual damages, recurring fees, interest, attorneys’ fees, and costs. This litigation was then consolidated with four cases previously filed by Days Inns Worldwide, Inc. and Travelodge Hotels, Inc. against franchisee Midlang Hospitality LLC, C.Z. Gabheraj, LLC, Hurp WL, LLC, and C. Gabheraj Hospitality, LLC, along with their corresponding guarantors, Urjita P. Bhoola, Prakash Bhoola, Hemlata R. Jariwala, Rajendra Jariwala, Guarang Jariwala, and Abhishek Jariwala, in the Superior Court of New Jersey, Morris County. The parties in the consolidated matter are currently engaged in discovery. The Wyndham Entities intend to defend the case vigorously.

Chafik Mihoubi v. Priceline.com, LLC et al. (Superior Court of Quebec, District of Montreal). On January 27, 2020, Plaintiff filed a class action suit as a representative of all consumers who made via internet, from Quebec, a booking from one of the defendants and who paid a higher price than the one advertised, except for fees chargeable under a federal or provincial statute when, under that statute, the fees must be charged directly to the consumer to be remitted to a public authority. Plaintiff named Wyndham Hotel Group, as well as several other hotel companies and online travel agencies. Plaintiff claims that the defendants charged a higher price than the advertised price for hotel rooms in violation of the Quebec Consumer Protection Act by not posting certain mandatory fees in the initial advertised price. Plaintiff seeks contractual and punitive damages, with interest, along with attorneys and other fees. Wyndham Hotel Group intends to defend the case vigorously.

### **Resolved Litigation Against the Lodging Affiliates**

Thomas Luca, Jr. v. Wyndham Worldwide Corporation, et al. (United States District Court for the Western District of Pennsylvania, Case 2:16-cv-00746-MRH). On June 6, 2016, Plaintiff Thomas Luca, Jr. filed a class action lawsuit against defendants Wyndham Worldwide, Wyndham Hotel Group, Wyndham Hotels and Resorts, LLC and Wyndham Hotel Management, Inc. (the “Wyndham Entities”). Plaintiff purports to bring the complaint on behalf of himself and: (i) as to resort fees, all United States citizens who have booked a hotel room through the Wyndham Entities’ websites within the applicable statute of limitations and were charged one or more resort fees; and (ii) as to the Terms of Use provision, all United States citizens who have booked a hotel room through the Wyndham Entities’ websites within the applicable statute of limitations. Plaintiff alleges violations of the New Jersey Consumer Fraud Act, through alleged

misleading charging of resort fees, and violations of the New Jersey Truth-in-Consumer Contract, Warranty and Notice Act (“TCCWNA”), through an allegedly unlawful Terms of Use provision on the Wyndham Entities’ websites. On August 15, 2016, the Wyndham Entities filed motions to dismiss, and on February 15, 2017, the Court granted the motions to dismiss of Wyndham Worldwide and Wyndham Hotel Management, Inc., leaving Wyndham Hotel Group and Wyndham Hotels and Resorts, LLC as parties. Plaintiff filed a motion for class certification on October 15, 2018, which the remaining Wyndham Entities opposed on December 14, 2018. On January 16, 2019, the Court dismissed the TCCWNA claim from the case. Wyndham Hotel Group and Wyndham Hotels and Resorts, LLC entered into a settlement agreement with Plaintiff whereby a class was certified for settlement purposes and eligible class members will receive either \$22 or 2,200 Wyndham Rewards points, and Wyndham will make certain display changes. The Court granted preliminary approval on October 18, 2019 and granted final approval on February 24, 2020.

Jay Brodsky v. Hilton Worldwide Inc., et al.; (United States District Court for the District of New Jersey, (Case 2:18-cv-13045-KM-JBC). On August 20, 2018, plaintiff Jay Brodsky filed an individual lawsuit against numerous hotel industry companies, including “Wyndham Hotels”-. Plaintiff alleged a per se violation of the Sherman Antitrust Act (in the form of bid rigging and a group boycott), and in the alternative, a violation of the Sherman Act by unreasonably restraining trade among 60% of the market for the online sale of hotel rooms in connection with alleged arrangements between defendants, and between defendants and certain OTAs, to eliminate competitive bidding for branded keywords in connection with advertising. Specifically, plaintiff has alleged that each of the defendants agreed to refrain from using online advertising methods to compete for consumers, by preventing competitors from bidding for online advertising that uses competitors’ brand names. Defendants jointly settled for \$7,000 payment (\$1,400 as to Wyndham Hotels) to Mr. Brodsky on February 22, 2019, resulting in a dismissal of the action.

Percy Pooniwala and Dinaz Pooniwala v. Wyndham Worldwide, Inc., et al.; (~~Case No. No. 0:14-cv-00778,~~ United States District Court for the District of Minnesota, Case No. No. 0:14-cv-00778). On February 28, 2014, plaintiffs served a ~~Complaint~~ complaint upon Super 8 Worldwide, Inc., Travelodge Hotels, Inc., Days Inns Worldwide, Inc., and Wyndham Worldwide Operations, Inc. (the “Wyndham Entities”) in the Fourth Judicial District, County of Hennepin, State of Minnesota, asserting allegations including (i) violation of the Minnesota Franchise Act; (ii) breach of contract; (iii) breach of the implied covenant of good faith and fair dealing; and (iv) retaliation. Plaintiffs’ claims related to four franchise agreements with the Wyndham Entities for the operation of Super 8, Travelodge and Days Inn franchised guest lodging facilities in Minnesota, and one proposed location that did not result in an executed franchise agreement. Plaintiffs allege that the Wyndham Entities wrongfully terminated, or were in the process of terminating, several of plaintiffs’ franchised sites because plaintiffs did not agree to settle a separate lawsuit pending in New Jersey. Plaintiffs sought damages in excess of \$150,000.00, as well as the recovery of attorneys’ fees. The Wyndham Entities filed counterclaims under the four franchise agreements and the location that did not result in an executed franchise agreement, including breach of contract and violations of the Lanham Act, seeking actual damages, liquidated damages, recurring fees and attorneys’ fees and costs. The parties reached a settlement in August 2015 as part of which ~~Plaintiff~~ plaintiffs made payments to the Wyndham Entities in the amount of \$220,000 made in monthly payments from November 2015 until April 2017 and the case was dismissed on September 25, 2015.

Loren Stone v. Howard Johnson International, Inc. & Does 1-10, (United States District Court for the Central District of California (Los Angeles), (CV. 12 1684)). On February 28, 2012, a purported class action complaint was filed against Howard Johnson International, Inc. and several fictitious defendants, alleging that defendants surreptitiously recorded telephone conversations with consumers. Specifically, plaintiff asserted three causes of action, alleging defendants (i) violated California's Invasion of Privacy Act (California Penal Code Section 630 et seq.); (ii) violated the common law right to privacy; and (iii) acted negligently. Plaintiff purported to bring the complaint on behalf of himself and "all other California residents whose telephone conversations were surreptitiously recorded by ~~Defendants~~defendants between July 13, 2006 and the present." Plaintiff amended his complaint to add Wyndham Hotel Group on May 10, 2013. The parties reached a settlement and executed a written settlement agreement with Wyndham Hotel Group, LLC denying any allegations of liability or wrongdoing and paying \$1,500,000.00 into an account administered by the Claims Administrator. The court approved the settlement and the case was dismissed on November 30, 2015.

FTC v. Wyndham Worldwide Corporation, et al. (United States District Court for the District of New Jersey, Case No. 13-cv-1887 (ES)(JAD)). On June 26, 2012 the U.S. Federal Trade Commission ("FTC") filed a lawsuit in Federal District Court for the District of Arizona against Wyndham Worldwide, Wyndham Hotel Group, Wyndham Hotels and Resorts, LLC and Wyndham Hotel Management, Inc. (the "Wyndham Entities"), alleging unfairness and deception-based violations of Section 5 of the FTC Act in connection with three prior cyberattacks involving a group of hotels operating under the Wyndham trade name. The parties settled the case by executing a Stipulated Order for Injunction, which does not hold the Wyndham Entities liable for any violations, nor require it to pay any monetary relief. The Court entered the Order and dismissed the case with prejudice on December 11, 2015.

FFC Capital Corporation v. Wyndham Hotel Group, LLC (Court of Common Pleas of Allegheny County, Pennsylvania) (G.D. No. 14-003150). This lawsuit was filed on February 28, 2014 in Pennsylvania State Court, Allegheny County. FFC Capital Corporation ("FFC") and Wyndham Hotel Group entered into a letter agreement on February 8, 2008 (the "Letter Agreement") as to proposed acquisitions by affiliates of FFC of twenty-two Wyndham Hotel Group-branded hotels. The twenty-two hotels filed for voluntary bankruptcy in 2010. FFC sued for breach of contract under the Letter Agreement, arguing that Wyndham Hotel Group failed to pay service fees allegedly owed as to transfers of twenty-one of the twenty-two hotels. The parties entered into a settlement agreement on January 22, 2015 as part of which Wyndham Hotel Group made no admission of liability and paid FFC \$260,000 and the case was dismissed.

Amar Shakti Enterprises, LLC et al. v. Wyndham Worldwide, Inc. et al., (United States District Court for the Middle District of Florida (Orlando), (Civ. 6:10-CV-1857-ORL-19-KRS)). On December 10, 2010, a purported class action lawsuit was filed against Ramada Worldwide Inc., Baymont Franchise Systems, Inc., Days Inns Worldwide, Inc., and Super 8 Worldwide, Inc. (the "Wyndham Entities") alleging claims involving the proactive matching feature and associated 5% fee under the Wyndham Rewards guest loyalty program. The proposed class included all franchisees that are or were parties to a franchise agreement with Wyndham Hotel Group's hotel franchisors offered from November 30, 1994 to December 10, 2010. There were also four proposed subclasses based upon different language in the various franchise agreements from 1994 to December 10, 2010. Specific counts in the Second Amended Complaint included (i) two

breach of contract counts; (ii) allegations of unfair and deceptive trade practices under Florida law; and (iii) violation of New Jersey's Consumer Fraud Act. Plaintiffs alleged ~~defendants~~that the Wyndham Entities breached their contracts with plaintiffs by imposing extra-contractual fees upon franchisees by virtue of their forced participation in ~~defendants~~the Wyndham Entities' proactive matching program. Plaintiffs alleged that defendants violated Florida's Deceptive and Unfair Trade Practices Act and New Jersey's Consumer Fraud Act by making misrepresentations as to the charges franchisees would be expected to pay and subsequently charging additional arbitrary fees to the franchisees and by making misrepresentations as to how the loyalty program worked. The franchisees sought damages in excess of \$260,000,000 and recovery of attorneys' fees. On April 4, 2012, the parties settled the case. The ~~franchisors~~Wyndham Entities reimbursed franchisee's counsel \$125,000 to defray certain of their out-of-pocket costs but no other damages or attorneys' fees were paid. Under the settlement, the ~~franchisors~~Wyndham Entities retained the right to pursue separate legal actions in New Jersey for their Counterclaims. On May 23, 2012, the Court entered an Order of Dismissal with Prejudice.

### **Litigation Against Franchisees Commenced in the Past Fiscal Year**

None.

Other than the above actions, no litigation needs to be disclosed in this Item.

### **ITEM 4. BANKRUPTCY**

No bankruptcy information is required to be disclosed in this Item.

### **ITEM 5. INITIAL FEES**

#### **Application, Initial and Affiliation Fees**

All prospective members must complete an application for a Trademark® membership (a "Membership Application") and forward it to us for our review. A copy of the Membership Application appears at the end of Exhibit C-1. You must pay a \$2,500 "Application Fee" when you submit your Membership Application. It is not refundable unless your application is not accepted due to proximity of the proposed site to another Chain Facility. You must pay an "Affiliation Fee" to us when you sign the Membership Agreement. The Affiliation Fee for a new construction Chain Facility is equal to the greater of \$39,500 or \$350 per room, and for a conversion Chain Facility is equal to the greater of \$35,000 or \$350 per room. If we approve your Membership Application, we will credit the Application Fee towards your Affiliation Fee. We do not intend to refund any Affiliation Fee. If we defer payment of all or a portion of the Affiliation Fee, you must sign the "Affiliation Fee Note" found in Exhibit C-1. In ~~2018~~2019, Affiliation Fees ranged from ~~\$20,000~~\$5,400 to ~~\$50,000~~\$7,750.

The Affiliation Fee paid by new construction and conversion facilities, covers, in part, certain onboarding services including:

Integration Services – ~~We will provide full operational resources, including training and support, for property opening.~~ Our quality team will perform an initial inspection of your

property and integration visit and our field team will provide training on and assistance with facility operations topics including Systems Standards and using the Chain's intranet site. We will also provide training through various on-line courses on subjects such as quality assurance, housekeeping, preventative maintenance, customer service and the RFP process. The value of these Integration Services is \$5,000.

In addition to the above, for members of a new construction facility, onboarding includes:

Revenue Management Services – ~~Four~~Six months of Start-Up Platinum Revenue Management Services for your Chain Facility beginning thirty days from your Opening Date. Services include scheduled communication and accessibility, bi-weekly meetings, STR review and evaluation, rate and inventory maintenance, strategic positioning, future demand strategy and targeted promotions and packages. The value of these Revenue Management Services is \$4,500.

Transferees of existing Chain Facilities and members renewing their memberships must pay an Application Fee, as well as an "Reaffiliation Fee" (instead of an Affiliation Fee), which is equal to the greater of \$35,000 or \$350 per room. We may negotiate a lower Reaffiliation Fee with you for a subsequent transfer or a renewal at the time the parties sign the original, transfer or renewal Membership Agreement, when business circumstances warrant. Reaffiliation Fees are not refundable.

In ~~2018~~2019, ~~the Reaffiliation Fee for all~~there were no transfers ~~was \$25,000. This does,~~Transfers do not include Administrative Assignments and any transfer memberships for which the transferor had previously negotiated a reduced Reaffiliation Fee in their original Membership Agreement with us. Also excluded were temporary operating agreements entered into with financial institutions and agreements entered into with receivers. There were no ~~franchise~~ renewals in ~~2018~~2019.

If you assign the Membership Agreement, with our consent, to an entity affiliated with the initial franchisee using the Assignment and Assumption Agreement included in Exhibit C-1 (an "Administrative Assignment"), we will charge you a flat, non-refundable administrative Reaffiliation Fee of \$5,000, which includes your Application Fee. If the Membership Agreement is being assigned to a financial institution or a court-appointed receiver, with our consent, the non-refundable administrative Reaffiliation Fee is \$7,500, and includes the Application Fee.

We may negotiate the amount, payment terms and payment of any of the above fees when business circumstances warrant.

### **Mandatory Support Services and Fees**

Members of new construction or conversion facilities must participate in the following required programs:

General Manager Training – We will provide training for your general manager in our Hospitality Management Program. The fee for this mandatory training program is ~~\$2,000~~2,250, which you will be billed within 90 days following the Opening Date of the

facility. Your general manager must attend and successfully complete this mandatory training program before you open a new construction facility or, for a conversion facility, within 90 days after the Opening Date. If your initial general manager does not attend the Hospitality Management Program within the required time period, you must also pay the tuition then in effect at the time of your general manager's attendance.

Digital Photographs – We will arrange for digital photographs to be taken of the Facility by our preferred professional photography company for use on our consumer website, third party travel websites, and various marketing media. The fee for the standard photo package is \$2,750.

In addition to the above, new construction Facilities, must participate in the following required program:

Opening Training – We will provide opening training for your staff. This training is conducted on site at your Facility anywhere from two weeks prior to, or up to 30 days after, the Facility's Opening Date. The duration and fee for this training is dependent on the size of your Facility as follows: \$750 for 0-50 rooms (1 day), \$2,250 for 51-200 rooms (up to 3 days) and \$3,750 for 200+ rooms (up to 5 days), plus travel, lodging and meal expenses of the facilitator.

Members of transfer facilities are ~~also~~ required to send your general manager to our Hospitality Management Program for training and pay the fee for such program, as described above. Members who are renewing their ~~memberships~~ memberships are not required to participate in our Hospitality Management program, provided your general manager has completed the training within the last eight years.

### **Property Management Systems**

You must procure computer hardware and a software license so that the Facility can communicate with the Central Reservation System. We have approved two property management systems ("PMS") under our technology standard: Sabre Hospitality's SynXis<sup>®</sup> system and the OPERA<sup>®</sup> system from Oracle Hospitality ("Oracle"). See Item 11 for a description of these systems and their differences.

If you choose the SynXis PMS, you must pay a one-time \$3,400 non-refundable set-up fee which includes deployment and installation, at least 30 days before the Opening Date of the Facility. The hardware for the SynXis PMS can be purchased separately if it meets our System Standards. You must sign the SynXis Subscription Agreement with us, which may include additional services and fees, including monthly support and interface fees paid after opening. You will be required to subscribe to any future SynXis upgrade when it becomes available, which may include additional services and fees. You may be required to execute a new SynXis Agreement or amend your current SynXis Agreement.

If you choose the OPERA PMS, you will subscribe and obtain the licenses required in connection with this PMS through the subscription based OPERA SaaS Model offered by Oracle under the Oracle Master Agreement. You must pay us a one-time set-up and implementation fee that ranges from \$12,925 to \$23,075 plus additional amounts for interfaces that may be required. You must

sign the OPERA Supplemental Services Agreement with us, which may include additional services and fees including monthly support and interface fees paid after opening.

If you purchase an existing Chain Facility with a PMS, we may require you to upgrade it or purchase a new PMS to meet our current configuration requirements, at your cost. If no upgrade is needed, and you purchase an existing Chain Facility with a PMS, you must pay a \$500 transfer fee for the SynXis PMS, or a \$3,900 transfer fee for the OPERA PMS plus possible additional fees for changes in the number of guest rooms in the Facility and changes to the number of interfaces the OPERA PMS uses.

If you are a transferee of a Chain Facility with a current PMS that meets our technology standards, we offer optional PMS recertification training for your Facility remotely at a fixed cost of \$500. You may also request additional training for the SynXis PMS for a fee of up to \$5,000, depending upon the number of staff that need to be trained and whether the training is conducted on-site or remotely, and up to \$10,000 for an OPERA PMS for up to seven trainer days. You must provide complimentary lodging for our trainers if the training is provided at the Facility.

Set up of PMS systems and their associated ongoing fees are non-refundable.

### **Design and Project Management Services**

We will provide you with an interior design prototype for the construction, renovation or furnishing of the Facility.

Conversion and new construction facilities must complete pre-opening improvements or construction of the Facility by the date specified in the Membership Agreement. If we choose to grant an extension of any deadline, including the Facility’s Opening Date, you must pay us a non-refundable extension fee of \$10,000. The extension fee is due within 10 days of the Facility’s Opening Date. We may negotiate the amount, payment terms or charging of this fee with you when business circumstances warrant.

You can purchase furniture, fixtures, equipment and other supplies which you may need before opening the Facility through WSSI’s “Approved Supplier” programs. However, if you choose to purchase certain design elements from a supplier other than an Approved Supplier, we may charge you a non-refundable Custom Interior Design Review Fee, for our review of custom interior design drawings or of a model room and one site visit. You must submit to us your design drawings to ensure compliance with our interior design standards. The Custom Interior Design Review Fee is currently \$6,000, but is subject to increase in the future.

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### **ITEM 6. OTHER FEES**

Type of Fee	Amount	Due Date	Remarks <sup>1</sup>
<u>General Fees</u>			

Membership Fee	4% of Gross Room Revenues ("GRR"). <sup>2</sup>	Monthly by the 3rd day of the month after GRR accrue.	Payable from Opening Date until the expiration or sooner termination of your Membership Agreement.
Marketing Fee	2.5% of GRR.	Same as Membership Fee.	Subject to change to cover costs of providing marketing, national- <del>advertising, training, and other services, and upon 30 days' notice to you</del>
<del>Loyalty Program Fees<sup>3</sup></del>	<del>5% of all amounts on which members earn points or other program currency.</del>	<del>Payable after a member is awarded points at the Facility and upon receipt of our invoice.</del>	<p>Loyalty Program Fees fund the costs associated with operation, customer support, technology and marketing of the Wyndham Rewards guest loyalty programs.</p> <p>If you do not achieve the required number of Wyndham Rewards Valid Enrollments over a certain period, in accordance with the Front Desk Guide, you must pay us a Retraining Fee.</p> <p>You must pay this fee if you do not process a member's points in a timely manner and we resolve the issue with the member. <u>Remarks<sup>1</sup></u></p> <p><u>advertising, training, and other services, and upon 30 days' notice to you</u></p>
<del>Retraining Fee</del>	<del>Up to \$400 per month.</del>	<del>Payable upon receipt of our invoice.</del>	
<del>Loyalty Member Services Administration <u>Typ</u> <u>pe of Fee</u></del>	<del>Currently, \$50 per complaint. <u>Amou</u> <u>nt</u></del>	<del>Payable upon receipt of our invoice. <u>Due</u> <u>Date</u></del>	
Taxes	Amount assessed by federal, state and local tax authorities.	When we invoice you.	Taxes based on Recurring Fees and basic charges, including sales, gross receipt, value added, use or similar taxes, but not on income tax (or any optional alternative to income tax) assessed against us.
<u>Design and Renovation Service Fees</u>			
Interest	Lesser of 1.5% per month or the maximum rate permitted by law.	When we invoice you.	Payable for late payment of Recurring Fees.

Extension Fee	\$10,000.	Within 10 days of the Opening Date.	Payable any time we agree to extend your opening deadlines beyond those dates established in Schedule D of the Membership Agreement.
<b>Type of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks<sup>†</sup></b>
<u>Rooms Addition Fee</u>	<u>Currently, \$350 for each guest room added to the Facility.</u>	<u>When we approve the addition.</u>	<u>Fee will be the same as the then current Affiliation Fee per room when you request our approval to increase the number of guest rooms in the Facility.</u>
<u>Custom Interior Design Review Fee</u>	<u>Currently, \$6,000.</u>	<u>When we invoice you.</u>	<u>If you choose to purchase certain design elements from a supplier other than an Approved Supplier, we may assess you a Custom Interior Design Review Fee for our review of custom interior design drawings which you must submit to us to ensure compliance with our interior design standards and includes one site visit.</u>
<u>Punch List Preparation Fee</u>	<u>Currently, \$1,500 per request.</u>	<u>When we invoice you.</u>	<u>This fee is charged if we have to prepare any Punch List for the Facility, post opening.</u>
<u>Training and Conferences</u>			
General Manager Certification	Currently <del>\$2,000.</del> <u>\$2,250.</u>	<u>When we invoice you before training.</u> When we invoice you before training.	Your initial general manager must attend our Hospitality Management Program within 90 days of your Opening Date. <sup>43</sup>
<u>General Manager Certification</u> Additional Attendee Fee	Currently, \$1,400.		If you are an owner and would like to accompany your general manager to the Hospitality Management Program, the tuition is in addition to your general manager's tuition.
<del>Continuing Education</del> <u>Onsite Opening Training</u>	<del>Currently, \$1,200 per year.</del> <u>0-50 rooms / 1 day training \$750</u> <u>51-200 rooms / Up to 3 days training \$2,250</u> <u>200+ rooms / Up to 5</u>	When we invoice you.	<u>This training is mandatory for new construction Facilities.</u> You <del>must pay</del> <u>are responsible</u> for <del>access to our Continuing Education training material. It includes training support and materials provided to all Facility team members. It includes regional workshops, service culture support materials and access to Wyndham University</del> <u>cost of travel and lodging for facilitators.</u> This fee is subject

			to increase in the future. <u>(See Item 11)</u>
<b><u>Type of Fee</u></b>	<b><u>Amount</u></b>	<b><u>Due Date</u></b>	<b><u>Remarks</u></b> <sup>1</sup>
	<u>days training \$3,750</u>		
<u>New Owner Orientation</u>	<u>Currently, \$2,000.</u>	<u>When we invoice you.</u>	<u>This training is geared towards owners who have not previously owned a Chain Facility or a Lodging Affiliate Chain Facility. This training is currently optional. No additional facilitator travel and lodging expenses. The fee is subject to increase in the future. (See Item 11)</u>
Remedial Training	Online: \$250. Onsite: \$750 to \$1,250.	When we invoice you.	We may require you, the general manager and/or a staff member to participate in a remedial customer experience assessment or training. (See Item 11)  These fees are subject to increase in the future.
Product Quality Training	Onsite: \$1,500 for 1 day; up to \$3,000 for 2 to 5 days; and up to \$5,000 for 6 to 10 days.	When we invoice you.	For additional and/or repeated instances of cleanliness or service failures, we reserve the right to require additional training. Fees are subject to change. You are responsible for cost of travel and lodging for facilitators.
<del>On-Site Operational Support</del> <u>Continuing Education</u>	<del>Currently, \$1,200 per each 8 hour day year.</del>	When we invoice you.	<del>We will offer you, as an option and for a fee, on-site operational support. A member of our field support team will visit your Facility to provide on-site operational support provided you are in compliance with your obligations under the Membership Agreement. The fee for this service is \$1,200 per each 8 hour day, with a maximum of three days. You must provide lodging for our field representative for the duration of the paid visit.</del> <u>You must pay for access to our Continuing Education training material. It includes training support and materials provided to all Facility team members. It includes regional workshops, service culture support materials and access to Wyndham University. This fee is subject to increase in the future.</u>

<u>Chain Conference Fee</u>	<u>Currently, \$1,250 - \$1,500.</u>	<u>Before conference when we invoice you.</u>	<u>The Chain Conference Fee is currently \$1,500 for the first attendee and \$1,250 for each additional attendee. Currently, an international conference is held approximately every 18 to 24 months, but is subject to change. The conference may be held as part of a multi-brand conference with other Lodging Affiliates. Member attendance required. We will automatically bill and charge you the Chain Conference Fee even if you do not attend.</u>
<b>Type of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks <sup>1</sup></b>
<del>Condemnation Payments</del>	<del>Recurring Fees for one year after notice of Condemnation or to the date of Condemnation, whichever is longer.</del>	<del>30 days after Facility condemnation is completed.</del>	<del>You must give one year's notice of termination for Condemnation. Fee payments continue until the Facility is actually taken by public authority.<sup>5</sup></del>
<del>Punch List Preparation Fee</del>	<del>Currently, \$1,500 per request.</del>	<del>When we invoice you.</del>	<del>This fee is charged if we have to prepare any Punch List for the Facility, post opening.</del>
<u>Onsite Operational Support Sales, Marketing and Distribution Programs</u>	<u>\$1,200 per each 8 hour day.</u>	<u>When we invoice you.</u>	<u>We will offer you, as an option and for a fee, onsite operational support. A member of our field support team will visit your Facility to provide onsite operational support provided you are in compliance with your obligations under the Membership Agreement. The fee for this service is \$1,200 per each 8 hour day, with a maximum of three days. You must provide lodging for our field representative for the duration of the paid visit.</u>
<u>GDS Fees</u>	<u>\$7.25 per reservation.</u>	<u>When we invoice you.</u>	<u>GDS Fees are based on reservations booked through the Global Distribution Systems ("GDS") administered by third-party vendors. Subject to modification to reflect changes in third party fees and our cost (including overhead) of providing the service, and new service offerings.</u>

<u>Third Party Channel Fee</u>	<u>\$2.25 per reservation.</u>	<u>When we invoice you.</u>	<u>Based on those reservations booked with our distribution partners and processed directly or indirectly through our distribution platform. Subject to modification as existing reservation channels are modified, partners are added to existing channels or new reservation channels are established.</u>
<u>Internet Booking Fees</u>	<u>\$2.25 per reservations.</u>	<u>When we invoice you.</u>	<u>Internet Booking Fees are based on reservations booked through an alternate distribution system. Subject to modification to reflect changes in third party fees and our cost (including overhead) of providing the service, and new service offerings.</u>
Agency Commissions	Up to 20% of GRR.	When we or an <del>agency</del> Agency invoice you.	Reimburses us for Agency Commissions we pay on your behalf plus related administrative costs. Includes commissions for travel agents, on-line travel and referral websites, travel consortia, travel management companies and <del>Global Sales Agents. 20% limit is generated on qualifying consumed reservations and subject to modification to reflect changes in the commissions we pay on your behalf.</del>
<del>Service Charge</del>	<del>1.5% of commissionable revenue.</del>		<del>The standard Service Charge is 1.5% on certain group sales and commission activities booked and consumed by agencies. Subject to modification to reflect changes in our costs.</del> global
<del>Member Benefits-Commissions</del>	<del>Up to 10% of GRR.</del>	<del>When we invoice you.</del>	<del>Based on reservations booked and consumed through our Member Benefits Program.</del>
<del>Service Charge</del>	<del>1.5% of commissionable revenue.</del>		<del>The standard Service Charge is 1.5% for certain group sales and commission activities booked and consumed for certain member programs. Subject to modification to reflect changes in our costs.</del>
<b>Type of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks <sup>1</sup></b>

			<u>sales agents. 20% limit is generated on qualifying consumed reservations and subject to modification to reflect changes in the commissions we pay on your behalf.</u>
<u>Agency Commission Service Charge</u>	<u>1.5% of commissionable revenue.</u>	<u>When we or an Agency invoice you.</u>	<u>The standard Service Charge is 1.5% on certain group sales and commission activities booked and consumed by agencies. Subject to modification to reflect changes in our costs.</u>
<u>Member Benefits Commissions</u>	<u>Up to 10% of GRR.</u>	<u>When we invoice you.</u>	<u>Based on reservations booked and consumed through our Member Benefits Program.</u>
<u>Member Benefits Commission Service Charge</u>	<u>1.5% of commissionable revenue.</u>	<u>When we invoice you.</u>	<u>The standard Service Charge is 1.5% on certain group sales and commission activities booked and consumed through member benefits programs. Subject to modification to reflect changes in our costs.</u>
Digital Pay-For-Performance (“PFP”) Commission	Up to 10% of GRR.	When we invoice you.	The PFP commission is currently 7% but can be up to 10%. All Chain Facilities must participate in the self- funding PFP program, under which <del>members</del> franchisees are charged a commission for consumed reservations booked via <del>(i)</del> (i) links to the Chain website or (ii) unique call center numbers generated from search engines, local business review and social websites, other internet websites, mobile sites and applications. These commissions are used to purchase the key words, business listings and display ads that drive consumers to the Chain website and call center. The PFP commission is in addition to all other applicable fees associated with the reservation.
<del>GDS Fees</del>	<del>\$7.25 per reservation.</del>	<del>When we invoice you.</del>	<del>GDS Fees are based on reservations booked through the Global Distribution Systems (“GDS”) administered by third-party vendors. Subject to modification to reflect changes in third party fees and our cost (including overhead) of providing the service, and new service-</del>

			<del>offerings.</del>
<del>Internet Booking Fee</del>	<del>\$2.25 per reservations.</del>	<del>When we invoice you.</del>	<del>Internet Booking Fees are based on reservations booked through an alternate distribution system. Subject to modification to reflect changes in third-party fees and our cost (including overhead) of providing the service, and new service offerings.</del>
<del>Third Party Channel Fee</del>	<del>\$2.25 per reservation.</del>	<del>When we invoice you.</del>	<del>Based on those reservations booked with our distribution partners and processed directly or indirectly through our distribution platform. Subject to modification as existing reservation channels are modified, partners are added to existing channels or new reservation channels are established.</del>
<b>Type of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks<sup>†</sup></b>
Wyndham Referral Rewards Program	10% of commissionable revenue.	When we invoice you.	When the referring party is a Chain Facility or facility of an affiliate, 7% of the referral commission paid to the referring facility; when the referring party is an employee of our parent company or its predecessor, 6% of the referral commission paid to the <del>employee.</del> <del>The remaining 3% and 4%, as applicable, is distributed to our Global Sales Organization to offset its administrative and overhead costs for supporting the Wyndham Referral Rewards Program.</del>
<del>Chain Conference Fee</del>	<del>Currently, \$1,250—\$1,500.</del>	<del>Before conference when we invoice you.</del>	<del>The Chain Conference Fee is currently \$1,500 for the first attendee and \$1,250 for each additional attendee. Currently, an international conference is held approximately every 18 to 24 months, but is subject to change. The conference may be held as part of a multi-brand conference with other Lodging Affiliates. Member attendance required. We will automatically bill and charge you the Chain Conference Fee even if you do not attend.</del>
<del>Rooms Addition Fee</del>	<del>Currently, \$350 for each guest room added to the Facility.</del>	<del>When we approve the addition.</del>	<del>Fee will be the same as the then current Affiliation Fee per room when you request our approval to increase the number of guest rooms in the Facility.</del>
<del>Reaffiliation Fee</del>	<del>The then-current Application and Affiliation Fee.</del>	<del>When transferee or renewing party signs new Membership Agreement.</del>	

<del>Indemnification Costs</del>	<del>Cost of defending and resolving indemnified claims.</del>	<del>When costs incurred or demanded by us.</del>	<del>Section 8 of Membership Agreement specifies when you indemnify us and the Lodging Affiliates for "Losses and Expenses" incurred to defend third-party claims and suits.</del>
<del>Returned Check Fee</del>	<del>Currently, \$20</del>		<del>Includes checks you submit to us which are dishonored by your bank or other financial institution.</del>
<del>Audit Fee</del>	<del>Costs and expenses of audit.</del>	<del>When we invoice you.</del>	<del>You will pay this fee if the understated amount is three percent (3%) or more of the total amount owed during a six-month period.</del>
<del>Paper Check Fee</del>	<del>\$160 processing fee per each occurrence.</del>	<del>When we invoice you.</del>	<del>You will pay this fee if you submit payment of any fee using a paper check. See footnote 1 below.</del>
<b>Type of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks<sup>1</sup></b>
<del>Dispute Resolution Costs</del>	<del>Costs, expenses, reasonable attorneys' fees.</del>	<del>When dispute resolution concludes.</del>	<del>Non-prevailing party reimburses prevailing party for litigation expenses to enforce the Membership Agreement or collect amounts owed.</del>
<del>Re-inspection Fee and Costs</del>	<del>Currently, \$2,100.</del>	<del>When we invoice you.</del>	<del>Pays for reinspection if (i) you do not complete all required improvements for the Facility by the deadlines established in the "Punch List" included in your Agreement, (ii) the Facility fails to maintain an overall guest satisfaction score of at least 70% (seventy percent) of the maximum available score (e.g., at least three and one half out of five stars) on a leading hospitality guest review site that we designate for two consecutive quarters, or (iii) you do not cooperate with the inspection. We may increase the Reinspection Fee in the future. We may also charge you for travel, lodging and meal expenses of the quality assurance inspectors on reinspections.</del>
<b>Type of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks<sup>1</sup></b>
			<u>employee. The remaining 3% and 4%, as applicable, is distributed to our Global Sales Organization to offset its administrative and overhead costs for supporting the Wyndham Referral Rewards Program.</u>
<u>Global Translation Fee</u>	<u>Currently, \$200 per language.</u>	<u>When we invoice you.</u>	<u>Your property's website will be translated in both English and Spanish. If you wish to have another translation, you will pay a fee for each additional language.</u>

<u>Signature Reservation Services Fee</u>	<u>Currently, 3.5% of the amount of GRR booked with a maximum of \$7.00 per booking for DCT or \$2.95 per call transferred for PCT.</u>	<u>When we invoice you.</u>	<u>We offer two models of service, Digital Call Transfer (DCT) and Property Call Transfer (PCT). You must participate in the Signature Reservation Services (“SRS”) program, where our agents book reservation on behalf of your Facility.</u>
<u>Short Term Revenue Management Service</u>	<u>Currently, \$3,000 for 90 consecutive days of service.</u>	<u>When we invoice you.</u>	<u>Short Term Revenue Management is a 90 day service. This service will compile relevant commercial information, align PMS and CRS systems, and assist with distribution and annual selling strategy.</u>
<u>Gold Revenue Management Services</u>	<u>Currently, \$4.20 per room per month, with a minimum of \$504 and a maximum of \$5,000 per month.</u>	<u>As indicated on the invoice or, if not indicated, 15 days after receipt.</u>	<u>Gold Revenue Management is a monthly service. Your Facility will be assessed to determine the most suitable Revenue Management Services based on a variety of factors including market, room count and occupancy rate. (See Item 11)</u>
<u>Platinum Revenue Management Services</u>	<u>Currently, 0-60 rooms \$595 per month; 61 - 100 rooms \$750 per month; 101-145 Rooms \$795 per month, and 146+ Rooms \$1,195 per month.</u>	<u>As indicated on the invoice or, if not indicated, 15 days after receipt.</u>	<u>Platinum Revenue Management is a bi-weekly service. Your Facility will be assessed to determine the most suitable Revenue Management Services based on a variety of factors including market, room count and occupancy rate. (See Item 11)</u>
<u>Diamond Revenue Management Services Fee</u>	<u>Currently, 0-145 rooms \$1,300 per month; 146-199 rooms \$1,900 per month; and for facilities with over 200 Rooms \$2,400 per month.</u>	<u>As indicated on the invoice or, if not indicated, 15 days after receipt.</u>	<u>Diamond Revenue Management is a weekly service. Your Facility will be assessed to determine the most suitable Revenue Management Services based on a variety of factors including market room count and occupancy rate. (See Item 11)</u>
<b><u>Type of Fee</u></b>	<b><u>Amount</u></b>	<b><u>Due Date</u></b>	<b><u>Remarks <sup>1</sup></u></b>

Guest Loyalty and Satisfaction Fees

Loyalty Program Fees <sup>4</sup>

Loyalty Retraining Fee

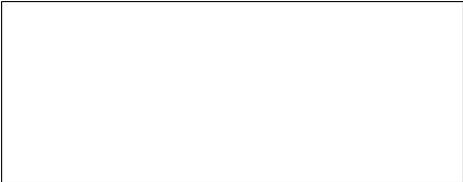
Loyalty Member Services Administration Fee 5% of all amounts on which members earn points or other program currency.

Up to \$400 per month.

Currently, \$50 per complaint.

Customer Care Fee	\$195 plus resolution costs.	When we invoice you.	The Customer Care Fee is currently \$195 plus resolution costs if you do not respond to a guest's complaint and resolve it within 3 business days after we notify you, and if we become aware of complaints posted on third- party travel websites, distribution channels, blogs, social networks and other forums to which you <del>don't</del> <u>do not</u> respond. We can modify the Customer Care Program from time to time including its operation and fees.
<u>Best Rate Guarantee Processing Fee</u>	<u>Currently \$195 per instance.</u>	<u>When we invoice you.</u>	<u>You must pay us the Best Rate Guarantee Processing Fee if we, or a guest, finds a lower publicly available rate on the Internet than you have provided to us, for the same date at your Facility. We reserve the right to monitor your rates, and continued non-compliance may also result in suspension from certain Marketing programs.</u>
<u>Property Management and Technology</u>			
SynXis PMS Set-Up Fee	Currently, \$3,400.	When we invoice you.	This fee is for SynXis PMS users only.
SynXis PMS Fee (includes HTCS / and CRISP and automated-	Currently, \$593.25 per month plus a \$50 per month <del>Mobility</del> <u>Mobile Check-in</u> Interface Fee. <del>Includes-</del>	Monthly when we invoice you.	This fee is for SynXis PMS users only.

<del>revenue management fees) (See Item 11)</del>	<del>deployment, training and monthly support.</del>		
<b><u>Type of Fee</u></b>	<b><u>Amount</u></b>	<b><u>Due Date</u></b>	<b><u>Remarks <sup>1</sup></u></b>
<u>revenue management fees) (See Item 11)</u>	<u>Includes deployment, training and monthly support.</u>		
<u>Mobile Operations Program (“MOP”)</u>	<u>Currently, \$0.60 per guestroom per month.</u>	<u>Monthly when we invoice you.</u>	<u>This fee is for SynXis PMS users only. MOP is a mobile device-based system for managing housekeeping and maintenance functions at your Facility. This program is currently optional but we may mandate in the future. The setup fee is included in the SynXis PMS Setup Fee noted above.</u>
<u>Emergency Safety Device (“ESD”)</u>	<u>Currently, \$35 per month</u>	<u>Monthly when we invoice you.</u>	<u>This fee is for SynXis PMS and MOP users only. ESDs are an optional feature of the MOP system which provides panic button functionality for your hotel staff.</u>
<u>OPERA PMS: SaaS Subscription Model - Set-Up and Implementation Fee</u>	<u>Currently, \$12,925 – \$23,075, depending on which OPERA system you choose, plus \$450 per interface, \$5,000 EMV Interface and \$3,150 per OXI Interface.</u>	<u>Due at least 30 days before the Opening Date.</u>	<u>This fee is for facilities using an OPERA PMS: SaaS Subscription Model.</u>
<u>HTCS/CRISP/OPERA Support (as defined in Item 11) Services Fee – OPERA PMS: SaaS Subscription Model</u>	<u>\$346 - \$752 per month.</u>	<u>When we invoice you.</u>	<u>This fee is only for facilities using the OPERA PMS: SaaS Subscription Model.</u>



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<u>Preventative Maintenance Software</u>	<u>Currently, up to \$1,500 per year.</u>	<u>When we invoice you.</u>	<u>If you require assistance tracking your preventative maintenance needs, as measured by your Facility (i) failing to maintain an overall guest satisfaction score of at least 70% (seventy percent) of the maximum available score (e.g., at least three and one half out of five stars) on a leading hospitality guest review site that we designate for two consecutive quarters, or (ii) receiving an average Medallia overall score for the preceding 12 month period less than</u>
<b>Type of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks <sup>1</sup></b>
			<u>6.0 (or its then equivalent score), we will require you to subscribe to a preventative maintenance software service, including a mobile application, provided by a third party to help you manage your housekeeping and maintenance processes. We may offer as an option or, in the future, mandate a software service program and provider.</u>
<del>HTCS/CRISP/OPERA Support (as defined in Item 11) Services Fee— OPERA PMS: SaaS Subscription Model Wyndham Wi-Fi Hotel Connectivity Support (HCS) Fee</del>	<del>\$346— \$752</del> <u>Currently, \$0.85 per room per month.</u>	<del>When we invoice you.</del> <u>Monthly, when we invoice you.</u>	<del>This fee is only for facilities using the OPERA PMS: SaaS Subscription Model.</del> <u>If you choose to install Wyndham Wi-Fi, you will pay the HCS fee to us. Equipment and installation of the WiFi solution is contracted and paid to a designated third party vendor.</u>
<del>Best Rate Guarantee Processing Fee Remedies, Non-Compliance and Other</del>	<del>Currently, \$60 per transaction.</del>	<del>When we invoice you.</del>	<del>You must pay us the Best Rate Guarantee Processing Fee if a guest finds a lower publicly available rate on the Internet than you have provided to us, for the same date at your Facility.</del>
<u>Extension Fee</u>	<u>\$10,000.</u>	<u>Within 10 days of the Opening Date.</u>	<u>Payable any time we agree to extend your opening deadlines beyond those dates established in Schedule D of the Membership Agreement.</u>

<u>Interest</u>	<u>Lesser of 1.5% per month or the maximum rate permitted by law.</u>	<u>When we invoice you.</u>	<u>Payable for late payment of Recurring Fees.</u>
<u>Returned Check Fee</u>	<u>Currently, \$100 for each occurrence.</u>	<u>When we incur or demand costs.</u>	<u>Includes checks you submit to us that are dishonored by your bank or other financial institution.</u>
<u>Paper Check Fee</u>	<u>\$160 processing fee per each occurrence.</u>	<u>When we invoice you.</u>	<u>See footnote 1 below.</u>
Reconnection Fee	Currently, \$4,000.	When we invoice you.	You must pay this fee to re-establish Central Reservation System service if we suspend the service because of your default under your Membership Agreement or for any reason. We may increase this fee in the future through a change in the System Standards or another directive.
<del>Signature-Reservation Fee</del>	<del>Currently, 3.5% of the amount of GRR booked with a maximum of \$6.00 per booking.</del>	<del>When we invoice you.</del>	<del>You must participate in the Signature-Reservation Services (“SRS”) program, where our agents book reservations on behalf of your Facility.</del>
<del>Platinum Revenue-Management Services</del>	<del>Currently, 0-60 rooms \$595 per month; 61-100 rooms \$750 per month; and for facilities with 101-199 Rooms \$1,150 per month.</del>	<del>As indicated on the invoice or, if not indicated, 15 days after receipt.</del>	<del>Platinum Revenue Management is a bi-weekly service. Your Facility will be assessed to determine the most suitable Revenue Management Services based on a variety of factors including, market, room count and occupancy rate. (See Item 11)</del>
<del>Gold Revenue-Management Services</del>	<del>Currently, \$4.20 per room per month, with a maximum of \$5,000 per month.</del>	<del>As indicated on the invoice or, if not indicated, 15 days after receipt.</del>	<del>Gold Revenue Management is a monthly service. Your Facility will be assessed to determine the most suitable Revenue Management Services based on a variety of factors including market, room count and occupancy rate. (See Item 11)</del>
<del>Diamond Revenue-Management Services Fee</del>	<del>Currently, 0-60 rooms \$1,200 per month; 61-100 rooms \$1,500 per month; 101-199 rooms \$2,400 per month; and for facilities with 200-500 Rooms \$2,900 per month.</del>	<del>As indicated on the invoice or, if not indicated, 15 days after receipt.</del>	<del>Diamond Revenue Management is a weekly service. Your Facility will be assessed to determine the most suitable Revenue Management Services based on a variety of factors including market, room count and occupancy rate. If your Facility has over 200 rooms, you will be required to participate in this weekly service for the term of your Membership Agreement. (See Item 11)</del>
<del>Short Term Revenue-Management Service</del>	<del>Currently, \$3,000 for 90 consecutive days of service.</del>	<del>When we invoice you</del>	<del>Short Term Revenue Management is a 90 day service. This service will compile relevant commercial information, align PMS and CRS systems, and assist with distribution and annual selling strategy.</del>
<b>Type of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks<sup>1</sup></b>

Liquidated Damages	Greater of \$2,000 per guest room or total Membership and Marketing Fees for 24 months before Membership Termination.	Within 30 days after Membership Termination (within 10 days if termination occurs before Opening Date).	Room count is based on rooms we authorize you to open, regardless of any room reductions. For pre opening termination, reduced to one half of formula amount. If the Facility has been open for fewer than 24 months, then the amount will be the average monthly Royalties and System Assessment Fees since the Opening Date multiplied by 24. Payable for termination under causes specified in the Membership Agreement.
Preventative Maintenance Software	Currently, up to \$1,500 per year.	When we invoice you.	If you require assistance tracking your preventative maintenance needs, as measured by your Facility (i) failing to maintain an overall guest satisfaction score of at least 70% (seventy percent) of the maximum available score (e.g., at least three and one half out of five stars) on a leading hospitality guest review site that we designate for two consecutive quarters, or (ii) receiving an average Medallia overall score for the preceding 12 month period less than 6.0 (or its then equivalent score), we will require you to subscribe to a preventative maintenance software service, including a mobile application, provided by a third party to help you manage your housekeeping and maintenance processes. We may offer as an option or, in the future, mandate a software service program and provider.
Custom Interior Design Review Fee	Currently, \$6,000.	When we invoice you.	If you choose to purchase certain design elements from a supplier other than an Approved Supplier, we may assess you a Custom Interior Design Review Fee for our review of custom interior design drawings which you must submit to us to ensure compliance with our interior design standards and includes one site visit.
<u>Audit Fee</u>	<u>Costs and expenses of audit.</u>	<u>When we invoice you.</u>	<u>You will pay this fee if the understated amount is three percent (3%) or more of the total amount owed during a six month period.</u>
<u>Re-inspection Fee and Costs</u>	<u>Currently, \$2,100.</u>	<u>When we invoice you.</u>	<u>Pays for reinspection if (i) you do not complete all required improvements</u>
<b><u>Type of Fee</u></b>	<b><u>Amount</u></b>	<b><u>Due Date</u></b>	<b><u>Remarks</u></b> <sup>1</sup>

			<p><u>for the Facility by the deadlines established in the “Punch List” included in your Agreement, (ii) the Facility fails to maintain an overall guest satisfaction score of at least 70% (seventy percent) of the maximum available score (e.g., at least three and one half out of five stars) on a leading hospitality guest review site that we designate for two consecutive quarters, or (iii) you do not cooperate with the inspection.</u></p> <p><u>We may increase the Reinspection Fee in the future. We may also charge you for travel, lodging and meal expenses of the quality assurance inspectors on reinspections.</u></p>
<u>Three Party Agreement / Comfort Letter Fee</u>	<u>Currently, \$1,000 per request.</u>	<u>When we invoice you.</u>	<u>The Three Party Agreement / Comfort Letter is a document issued by us in our sole discretion that grants your lender certain rights under the Membership Agreement</u>
<u>Indemnification Costs</u>	<u>Cost of defending and resolving indemnified claims.</u>	<u>When we incur or demand costs.</u>	<u>Membership Agreement specifies when you indemnify us and our affiliates for “Losses and Expenses” incurred to defend third party claims and suits.</u>
<u>Dispute Resolution Costs</u>	<u>Costs, expenses, reasonable attorneys’ fees.</u>	<u>When dispute resolution concludes.</u>	<u>Non-prevailing party reimburses prevailing party for litigation expenses to enforce the Membership Agreement or collect amounts owed.</u>
<u>Condemnation Payments</u> <sup>5</sup>	<u>Recurring Fees for one year after notice of Condemnation or to the date of Condemnation, whichever is longer.</u>	<u>30 days after Facility condemnation is completed.</u>	<u>You must give one year’s notice of termination for Condemnation. Fee payments continue until the Facility is actually taken by public authority.</u>

<u>Liquidated Damages</u>	<u>Greater of \$3,000 per guest room or the average monthly Membership and Marketing Fees for 12 months before Membership Termination, multiplied by 36.</u>	<u>Within 30 days after Membership Termination (within 10 days if termination occurs before Opening Date).</u>	<u>Room count is based on rooms we authorize you to open, regardless of any room reductions. For pre-opening termination, reduced to one-half of formula amount. If the Facility has been open for fewer than 12 months, then the amount will be the average monthly Membership and Marketing Fees since the Opening Date multiplied by 36. Payable for</u>
<b><u>Type of Fee</u></b>	<b><u>Amount</u></b>	<b><u>Due Date</u></b>	<b><u>Remarks <sup>1</sup></u></b>
			<u>termination under causes specified in the Membership Agreement.</u>

~~Membership Agreement is signed for any fee listed above when business circumstances warrant. You begin paying Recurring Fees when you open the Facility. If you purchase an existing Facility, you begin paying Recurring Fees when you acquire or take possession of the Facility, whichever comes first.~~

~~**ITEM 7. ESTIMATED INITIAL INVESTMENT**~~ Certain member stays may not qualify for Wyndham Rewards point earnings. We will proactively match and award points to members even if they fail to present their membership number before check-out. We will reimburse you for free or certain discounted night stays at your Facility under a formula which is listed in the Front Desk Guide, which may be amended. Wyndham Rewards, Inc. has reserved the right to modify, alter, delete or add new terms or conditions, procedures, point values, redemption levels or rewards for the Wyndham Rewards program upon thirty (30) days' notice. Wyndham Rewards, Inc. may terminate the program at any time upon six months' prior notice.

<b>ESTIMATED EXPENDITURES FOR A 100 ROOM TRADEMARK CONVERSION FACILITY</b>				
<b>(1) Type of expenditure</b>	<b>(2) Amount</b>	<b>(3) Method of payment</b>	<b>(4) When due</b>	<b>(5) To whom payment is to be made</b>
Application Fee; Affiliation Fee <sup>1</sup>	\$35,000	Lump Sums	\$2,500 upon submittal of Member Application; Affiliation Fee: balance due upon signing of Membership Agreement	Us
Facility Improvements <sup>2</sup>	\$0 to <del>\$2,146,042</del> <u>2,253,000</u>	As Incurred	Before Opening	Suppliers
Furniture, Fixtures and Equipment <sup>3</sup>	\$0 to <del>\$67,917</del> <u>584,955</u>	As Incurred	Before Opening	Suppliers, Vendors

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Signage <sup>4</sup>	\$1,000 to \$90,000	As Incurred/Lease	Before Opening/ <del>Monthly</del> <u>Monthly</u> Payments	Suppliers/Leas- ing Agent
Opening Inventory and Supplies <sup>5</sup>	<del>\$14,849 to</del> <del>\$279,442</del> <u>\$14,839 to</u> <u>\$263,726</u>	As Incurred	Before Opening	Suppliers, Vendors
Photos <sup>6</sup>	\$2,750	As Incurred	Before Opening	Us, Wyndham Hotel Group
Insurance <sup>7</sup>	<del>\$9,000 to</del> <del>\$15,000</del> <u>\$20,000 to</u> <u>\$40,000</u>	Lump Sum	Before Opening	Insurance Carriers

**ESTIMATED EXPENDITURES FOR A 100 ROOM  
TRADEMARK CONVERSION FACILITY**

<u>(1) Type of expenditure</u>	<u>(2) Amount</u>	<u>(3) Method of payment</u>	<u>(4) When due</u>	<u>(5) To whom payment is to be made</u>
Grand Opening Advertising	\$0 to \$10,000	As Incurred	Before Opening	Advertising Media, Agency, Printer, Photographer
Training Tuition <sup>8</sup>	<del>\$2,000</del> <u>2,250</u> to <del>\$3,400</del> <u>9,400</u>	As Incurred	Before Opening	Us, Wyndham Hotel Group
Training Expenses <sup>9</sup>	<del>\$770</del> <u>785</u> to <del>\$5,100</del> <u>7,092</u>	As Incurred	Before Opening	Facility, Restaurants, Airlines, Car Rental Agency, General Managers, Travel providers
Technology Systems <sup>10</sup>	\$0 to \$70,132	As Incurred	Before Opening	Supplier, Vendor
Property Management Set-Up and Installation <sup>11</sup>	\$3,400 to \$23,075	As Incurred	Before Opening	Us, Wyndham Hotel Group
Miscellaneous Non-Tangible Asset Costs <sup>12</sup>	\$25,000 to \$45,000	As Incurred	Before Opening	Suppliers, Professionals

Conversion Contingency <sup>13</sup>	\$0 to \$ <del>107,302</del> <u>112,650</u>	As arranged	As incurred	Contractors, Vendors, Suppliers
Architecture, Design and Engineering <sup>14</sup>	\$0 to \$530,450	Installments	Before, During, After Construction	Architects, Engineers, Consultants
<u>Permits, Licenses, Deposits and Related Fees</u> <sup>15</sup>	<u>\$0 to \$128,750</u>	<u>Lump Sum</u>	<u>Before Opening</u>	<u>Government Agencies, Utility Companies</u>
<u>Additional Funds for 3 Month Initial Period</u> <sup>16</sup>	<u>\$93,534 to \$203,601</u>	<u>Monthly Payments For Recurring Fees; As Incurred For Other Expenses</u>	<u>After Opening</u>	<u>Us, Employees, Suppliers, Utilities</u>
<b>ESTIMATED EXPENDITURES FOR A 100 ROOM TRADEMARK CONVERSION FACILITY</b>				
<b>(1) Type of expenditure</b>	<b>(2) Amount</b>	<b>(3) Method of payment</b>	<b>(4) When due</b>	<b>(5) To whom payment is to be made</b>
<del>Permits, Licenses, Deposits and Related Fees</del> <sup>15</sup>	<del>\$0 to \$128,750</del>	<del>Lump Sum</del>	<del>Before Opening</del>	<del>Government Agencies, Utility Companies</del>
<del>Additional Funds for 3 Month Initial Period</del> <sup>16</sup>	<del>\$96,222 to \$211,665</del>	<del>Monthly Payments For Recurring Fees; As Incurred For Other Expenses</del>	<del>After Opening</del>	<del>Us, Employees, Suppliers, Utilities</del>
<b>Total Estimated Initial Investment</b> <sup>17</sup>	<del>\$189,991 to \$4,271,025</del> <u>\$198,558 to \$4,409,581</u>	<b>The table does not include the cost of purchasing or leasing real estate.</b>		
<b>Total Cost per Room</b>	<del>\$1,900</del> <u>1,986</u> to <del>\$42,710</del> <u>44,096</u>			

The table provides an estimate of the initial investment required for a 100 room Trademark Chain Facility. The presentation in the conversion Facility tables presumes that you already own the Facility. The figures for “hard costs,” such as Facility construction and improvements, furniture, fixtures and equipment, and signage, for new construction Facilities are based on hotel industry sources and our experience and the experience of our members. Your actual expenditures for a Chain Facility will depend upon many variables, such as region of the country, labor costs, economic conditions, and timetable for completing the project, and may be outside of the ranges

presented.

**Footnotes:**

~~interior design package in all guest rooms and public areas. Tax is averaged at 7% and requires verification at~~<sup>4</sup> Includes the time cost of purchase. Freight, warehousing materials and installation is estimated at 20% (must be confirmed upon purchasing) for one pylon sign, one wall mounted sign, channel letters and one directional sign, if needed. The low end of the range presumes that you only need to purchase a wall-mounted plaque for behind your front desk as your existing signage is in good condition. The upper end of the range presumes that you will need to install a new column. Your actual cost will depend on many variables including sign size, materials and height, distance signs must be shipped, labor costs and local ordinances.

consoles and guest room and administrative telephones) and television system. The low end of the range presumes that the Facility's PBX/telephone, television, and high speed Internet access systems meet our standards and specifications and do not need to be upgraded. The low end of the range also assumes that you own adequate equipment to operate the PMS. The high end of the range presumes that the Facility's high speed Internet access, PBX/telephone and television systems all need to be replaced. The high end of the range also presumes that you need to acquire equipment on which to operate the PMS. See Item 11 for information about the PMS.

<sup>11</sup> All Chain Facilities must procure an approved PMS so they can interface with the Central Reservation System. The amounts presented include costs associated with the PMS Set-Up and Installation. The low end of the range assumes you select the base SynXis PMS for the Facility. The high end of the range assumes that you select the Premium OPERA SaaS Subscription Model system for the Facility. See Item 11 for information about PMS.

<b>ESTIMATED EXPENDITURES FOR A 100 ROOM TRADEMARK NEW CONSTRUCTION FACILITY</b>					
<b>(1) Type of expenditure</b>	<b>(2) Amount</b>	<b>Amo</b>	<b>(3) Method of payment</b>	<b>(4) When due</b>	<b>(5) To whom payment is to be made</b>
Application Fee; Affiliation Fee <sup>1</sup>	\$39,500		Lump Sums	\$2,500 upon submittal of Membership Application; Affiliation Fee; balance due upon signing of Membership Agreement	Us
Market Study <sup>2</sup>	\$12,000 to \$25,000		Lump Sum	Before Construction	Feasibility Consultant
Phase I Environmental Survey <sup>3</sup>	\$4,000 to \$7,500		Lump Sum	Before Land Acquired	Environmental Consultant

Architecture, Design and Engineering <sup>4</sup>	\$225,000 to \$608,850	Installments	Before, During, After Construction	Architects, Engineers, Consultants
Land Acquisition <sup>5</sup>	Not Estimated			
Permits, Licenses, Deposits and Related Fees <sup>6</sup>	\$135,000 to \$276,300	Lump Sum	Before Opening	Government Agencies, Utility Companies
Facility Construction <sup>7</sup>	<del>\$6,017,143 to \$9,793,829</del> <u>\$6,317,000 to \$9,993,000</u>	Progress Payments	Before Opening	General Contractor
Furniture, Fixtures and Equipment <sup>8</sup>	<del>\$508,478 to \$567,917</del> <u>\$523,732 to \$584,955</u>	As Incurred	Before Opening	Suppliers, Vendors
Signage <sup>9</sup>	\$40,500 to \$90,000	As Incurred/Lease	Before Opening/Monthly Payments	Suppliers/Leasing Agent
Opening Inventory and Supplies <sup>10</sup>	<del>\$231,133 to \$279,442</del> <u>\$227,557 to \$263,726</u>	As Incurred	Before Opening	Suppliers, Vendors
Photos <sup>11</sup>	\$2,750	As Incurred	Before Opening	Us, Wyndham Hotel Group
Insurance <sup>12</sup>	<del>\$9,000 to \$15,000</del> <u>\$20,000 to \$40,000</u>	Lump Sum	Before Construction and Prior to Opening	Insurance Carrier
Grand Opening Advertising	\$0 to \$10,000	As Incurred	Before Opening	Advertising Media, Agency, Printer, Photographer
<b><u>ESTIMATED EXPENDITURES FOR A 100 ROOM TRADEMARK NEW CONSTRUCTION FACILITY</u></b>				
<b><u>(1) Type of expenditure</u></b>	<b><u>(2) Amount</u></b>	<b><u>(3) Method of payment</u></b>	<b><u>(4) When due</u></b>	<b><u>(5) To whom payment is to be made</u></b>
Training Tuition <sup>13</sup>	<del>\$2,000 to \$3,400</del> <u>2,950 to 9,400</u>	As Incurred	Before Opening	Us, Wyndham Hotel Group

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Training Expenses <sup>14</sup>	<del>\$770,294</del> to <del>\$5,100,709</del>	As Incurred	Before Opening	Facility, Restaurants, Airlines, Car Rental Agency, General Managers, Travel providers
Technology Systems <sup>15</sup>	\$68,132 to \$70,132	As Incurred	Before Opening	Designated Computer Supplier, Vendors
<b>ESTIMATED EXPENDITURES FOR A 100 ROOM TRADEMARK- NEW CONSTRUCTION FACILITY</b>				
<del>(1)</del> Type of expenditure	<del>(2)</del> Amount	<del>(3)</del> Method of payment	<del>(4)</del> When due	<del>(5)</del> To whom payment is to be made
Property Management Set- Up and Installation <sup>16</sup>	\$3,400 to \$23,075	As Incurred	Before Opening	Us, Wyndham Hotel Group
Miscellaneous, Non- Tangible Asset Costs <sup>17</sup>	\$55,000 to \$100,000	As Incurred	Before Opening	Suppliers, Professionals
Construction Contingency <sup>18</sup>	<del>\$300,857 to</del> <del>\$489,691</del> <del>\$499,650</del> <u>\$315,850 to</u> <u>\$499,650</u>	As Incurred	Before Opening	Suppliers, Utilities
Additional Funds for 3 Month Initial Period <sup>19</sup>	<del>\$96,222 to</del> <del>\$211,665</del> <del>\$203,601</del> <u>\$93,534 to</u> <u>\$203,601</u>	Monthly Payments For Recurring Fees; As Incurred For Other Expenses	After Opening	Us, Employees, Suppliers, Utilities
<b>Total Estimated Initial Investment<sup>20</sup></b>	<del>\$7,750,885 to \$12,619,151</del> <del>\$8,087,199 to</del> <del>\$12,854,531</del> <u>\$8,087,199 to</u> <u>\$12,854,531</u>			<b>The table does not include the cost of purchasing or leasing real estate.</b>
<b>Total Cost Per Room</b>	<del>\$77,509 to \$126,192</del> <del>\$80,872 to</del> <del>\$128,545</del> <u>\$80,872 to</u> <u>\$128,545</u>			

The table provides an estimate of the initial investment required for a 100 room Trademark Chain Facility. The new construction Facility tables exclude the cost of land. The figures for “hard costs,” such as Facility construction and improvements, furniture, fixtures and equipment, and signage, for new construction Facilities are based on hotel industry sources and our experience

and the experience of our members. Your actual expenditures for a Chain Facility will depend upon many variables, such as region of the country, labor costs, economic conditions, and timetable for completing the project, and may be outside of the ranges presented.

#### Footnotes:

~~plumbing engineering) fees to create plans and specifications to meet site feasibility report requirements<sup>9</sup> Includes the cost of materials and installation for hotel signage, including exterior signage visible from road or highway, wall mounted signs, directional signs including sign casing and columns. Your actual cost will depend on many variables including the number of signs, sign size, materials and height, distance signs must be shipped, labor costs and local code and zoning requirements. This amount does not include site evaluation fees, geotechnical report fees, or civil engineering fees ordinances.~~

~~compensation, employer's liability, disability and other insurance benefits for your employees.~~

#### **ITEM 8. RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

~~Except as disclosed below, you are not required to purchase or lease products or services 1) from us or our affiliates, 2) from suppliers approved by us, or 3) under our specifications. We may derive commissions or other revenue as a result of these purchases and leases.~~

#### **Standards and Specifications**

~~To assure consistency among Chain Facilities, each Facility must meet System Standards. These standards require that most of the items you use or sell at your Facility meet our specifications. Items that must meet our specifications include certain aspects of the Facility's construction, certain services you offer in the Facility, including food and beverage services, the Facility's equipment, décor and amenities, guest room size, signage, photographs, advertising, furniture and fixtures, various supplies, bath and bed linens, draperies, bed toppings, mattresses and box springs, carpet, wall coverings, lighting, wireless high-speed Internet access, property management system, computer hardware, peripheral equipment, operating system software, telephone, lock systems, insurance, and in certain circumstances your third party manager or management company and management agreement. Our specifications may include minimum requirements for delivery, performance, design, appearance and quality. We will provide you this information in our Standards~~

~~systems and equipment for which to operate the PMS. See Item 11 for information about the PMS.~~

~~of Operation and Design Manual (the "Manual"). We may revise existing standards and add new ones through updates to the Manual.~~

We estimate that the items you purchase meeting System Standards will represent approximately 35% to 50% of your total initial expenditures for goods and services in establishing a new construction or conversion Facility. We expect that these items will represent approximately 10% to 15% of your annual purchases and leases.

#### **Approved Suppliers**

To support the purchasing efforts of our members, we and/or our affiliate WSSI negotiate purchasing terms, including price, volume discounts and commissions, on a range of products and services. In doing so, we and/or WSSI seek to promote the overall interests of our and our affiliates' lodging systems, management companies, and interests as franchisors. Currently, we and/or WSSI identify certain suppliers of products and services with whom we and/or WSSI may have negotiated purchase terms, who are then designated as "Approved Suppliers". You may purchase products and services directly from these Approved Suppliers through our electronic e-procurement system or through more traditional means. We may provide your contact information to our Approved Suppliers and you may be contacted by our Approved Suppliers.

Suppliers not on the Approved Supplier list that are interested in doing business with us or the Lodging Affiliates must apply by registering online at our Supplier Registration site <http://suppliers.wyndham.com/>. Interested suppliers are evaluated and potentially approved according to an approval process established by WSSI. Currently, WSSI does the evaluations and approvals. The specific criteria and processes utilized by WSSI in the approval process are not disclosed to members. WSSI will review a supplier who has registered with the Supplier Registration site on an as needed basis.

WSSI may not review all suppliers. For those that it does review, it will notify the supplier of approval within approximately 1 year after the supplier provides WSSI all information it requests about the supplier. Only suppliers chosen by WSSI to become an Approved Supplier will be notified by WSSI of their acceptance. WSSI may revoke a supplier's "Approved" status if the supplier's agreement with us, WSSI, or an affiliate expires and is not renewed, or if the supplier is in default under their agreement with us, WSSI, or an affiliate. We will notify our members if this occurs. Revocation does not mean that you can no longer purchase from this supplier; it simply means that the supplier no longer participates in WSSI's program to offer discounts or other benefits to our members.

Approved Suppliers generally pay WSSI a commission based upon the volume of sales to members. These commissions are typically a percentage of net or gross sales to members. Commissions range from 1% to 5% of net or gross sales to members.

In ~~2018~~2019, our and the Lodging Affiliates's net revenues from the purchase of products or services by franchisees and members was approximately \$~~23.1~~24.2 million<sup>+</sup>, or approximately ~~1.24~~1.18% of WHR's total net revenues of \$~~1.868~~2.053 billion, as reflected in its Consolidated and Combined Statements of Income for ~~2018~~2019.

None of our officers own a material interest in any supplier to our System. However, from time to time, our officers may own non-material interests, for investment purposes only, in publicly-held companies that are suppliers to our System.

### **Required Purchases from Approved Suppliers**

The only items you must buy from an Approved Supplier are items bearing the Marks (such as signage, supplies, and digital photographs), certain elements necessary to create a brand-defining

<sup>+</sup>This figure includes revenue from purchases of products and services by franchisees of La Quinta Franchising, LLC, beginning the date of WHR's acquisition of the La Quinta brand on May 30, 2018.

ambience (such as music, scent, or specific décor), the firm you retain to prepare a market feasibility study for your Facility (if any), and certain technology systems, including guest wireless high-speed internet access and your property management system (although you will pay us, or an affiliate, for certain services related to your property management system, and may be required to pay us, or an affiliate, for certain services related to your guest wireless high-speed internet access system). There may be only one Approved Supplier for certain items bearing the Marks and we do not plan to approve other suppliers. We have approved two different brands of property management system, but only one supplier for each brand. In addition, there is only one Approved Supplier for the credit card gateway processing services you must use with one of the property management systems. Otherwise, you can purchase items from any party you wish as long as the items meet our System Standards. We may have sole Approved Suppliers in the future for various items, which may include us or an affiliate. We and our affiliates intend to make a profit on any items we or they sell to you.

If you choose to purchase certain design elements from a supplier other than an Approved Supplier, you must provide us your custom interior design drawings for our review to ensure compliance with our standards, and we may charge a fee for such review. You must use our call center to book reservations from customers who call your Facility to make a reservation. See Items 5 and 6. These are the only services that you must purchase or lease from us or an affiliate and neither we nor any affiliate are currently an Approved Supplier for any other item.

If you are building a new construction hotel and participating in our Development Incentive Financing Program, you must use the services of a procurement provider (“PP”) that we have approved. The fee for these services is typically 8% to 10% of the total cost of the furniture, fixtures and equipment purchased.

We do not provide you with any material benefits (for example, the opportunity to acquire additional memberships, special renewal rights or similar benefits) if you purchase goods or services through our Approved Supplier program. We do not have a purchasing or distribution cooperative that you must join.

~~[Remainder of Page Intentionally Left Blank]~~

## ITEM 9. FRANCHISEE’S OBLIGATIONS

This table lists your principal obligations under the membership 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.<sup>1</sup>

Obligation	Section in Membership Agreement	Section in Signature Reservation Services Agreement	Section in SynXis Agreement	Section in OPERA Supplemental Services Agreement	Disclosure Document Item
a. Site Selection and acquisition/lease	3.1, Schedule D	Not Applicable	Not Applicable	Not Applicable	Items 7, 8, 11
b. Pre-opening purchases/leases	3.1, 3.8, 3.10, 3.15, Schedule D	Not Applicable	5.1	Not Applicable	Items 5, 7, 8, 11

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c. Site development and other pre-opening requirements	3.1, Schedule D	Schedule B	5.1	Not Applicable	Items 5, 6, 7, 11
d. Initial and ongoing training	3.3, 4.1	Not Applicable	5.1, Schedule 2.1, Schedule 2.3	1.2	Items 6, 7, 11
e. Opening	3.1, Schedule D	Not Applicable	Not Applicable	Not Applicable	Item 11
f. Fees	3.7, 3.9, 3.12, 3.15, 4.1, 4.2, 4.3, 4.8, 6, 7, 9.3, 9.4, 11.4, 12.1, 12.2, 13.1, 13.2, 15.6, 17.4, Schedule C, Schedule D	1.	5, Schedule 5.1	1.1, 2, Schedule B	Items 5, 6, 11, 17
g. Compliance with standards and policies/operating manual	3.2, 3.3, 3.4, 3.6, 3.7, 3.8, 3.10, 3.11, 3.12, 3.13, 3.15, 4.1, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 7.1, 7.5, 9.3, 13.1, 13.2, 15.4, 15.6, Schedule D	Not Applicable	2, 4.7, 9.1, 9.2, 9.4, Schedule 4.2	1.3	Items 8, 11
h. Trademarks and proprietary information	3.4, 3.10, 3.11, 4.4, 4.5, 4.8, 8.3, 9.1, 9.2, 11.2, 13.1, 15.1, 15.2, 15.4, 15.5, 15.6	Not Applicable	3., 4.4, 10.2	Not Applicable	Items 8, 13, 14
i. Restrictions on products/services-offered	3.2, 3.4, 3.11, <del>3-12</del>	Not Applicable	3, 4.5, 7.2	Not Applicable	Items 8, 16
<b><u>Obligation</u></b>	<b><u>Section in Membership Agreement</u></b>	<b><u>Section in Signature Reservation Services Agreement</u></b>	<b><u>Section in SynXis Agreement</u></b>	<b><u>Section in OPERA Supplemental Services Agreement</u></b>	<b><u>Disclosure Document Item</u></b>
<b><u>offered</u></b>	<b><u>3.12</u></b>				

j. Warranty and customer service requirements	3.2, 3.4, 3.11	4.	7.2	4	Items 6, 11
k. Territorial development and sales quotas	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable
l. Ongoing product/service purchases	3.10, 4.2, 4.4, 15.6	Not Applicable	Schedule 2.1, Schedule 2.3, Schedule 4.2, <a href="#">Schedule 4.3</a>	Not Applicable	Item 8
<b>Obligation</b>	<b>Section in Membership Agreement</b>	<b>Section in Signature-Reservation-Services Agreement</b>	<b>Section in SynXis-Agreement</b>	<b>Section in OPERA-Supplemental-Services-Agreement</b>	<b>Disclosure-Document Item</b>
			<del>Schedule 4.3</del>		
m. Maintenance, appearance and remodeling requirements	3.1, 3.2, 3.12, 3.14	Not Applicable	4.3, 10.3	Not Applicable	Items 6, 8, 11
n. Insurance	3.8, Schedule D	Not Applicable	Not Applicable	Not Applicable	Items 6, 7, 8
o. Advertising	3.4, 4.3, 7.1.2, 15.6	Not Applicable	Not Applicable	Not Applicable	Items 6, 11
p. Indemnification	8, Schedule C	Not Applicable	11	3	Item 6
q. Owner's participation/management/staffing	3.2	Schedule A	4.7, 5.5	1.3.2	Items 11, 15
r. Records and reports	3.6	Schedule B	9.2	Not Applicable	Item 6
s. Inspections and audits	3.7, 4.8, Schedule D	Not Applicable	3.4, Schedule 4.2	Not Applicable	Items 6, 11
t. Transfer	9	Not Applicable	5.1	Not Applicable	Items 6, 17
u. Renewal	5	Not Applicable	Not Applicable	Not Applicable	Item 17
v. Post-termination obligations	12, 13	Not Applicable	16.9, 16.16	9.7, 9.13	Items 6, 17
w. Non-competition covenants	3.11, 2	Not Applicable	Not Applicable	Not Applicable	Item 12
x. Dispute resolution	11.4, 17.6.1, 17.6.2, 17.6.3, 17.6.4, 17.6.5	Not Applicable	16.8, 16.15	9.12	Item 17

[guaranty \(see Exhibit C-1\) agreeing to assume and discharge all obligations of the member under the Membership Agreement. If we offer you Development Incentive financing \(see Item 10\), your significant owners must co-sign the Development Incentive Note with you. If the significant](#)

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owners are residents of community property or certain other states, their spouses must also sign the note.

## ITEM 10. FINANCING

Except as specified in this Item 10, we do not offer or provide any financing arrangements for Trademark members, either directly or indirectly.

**Affiliation Fee Deferral.** We may defer payment of the Affiliation Fee, if business circumstances warrant, in our sole discretion. The deferral is usually for a short term such as 90 days, or until the Facility opens as a Chain Facility, whichever occurs first. If deferred, you must pay the Affiliation Fee in one or more installments, without the accrual of interest unless you do not pay the Affiliation Fee within ten days after it is due. The number of payments may vary based on business circumstances, but generally requires up to three equal installments over a 90 day period. We do not require any security for the Affiliation Fee Note. The Affiliation Fee Note may be prepaid at any time without penalty. You and your owners must sign the Affiliation Fee Note in substantially the form shown in Exhibit C-1. If your owners are residents of community property or certain other states, their spouses must also co-sign the Affiliation Fee Note. Under the Affiliation Fee Note, you and your guarantors, or any co-makers of the Affiliation Fee Note, waive traditional defenses. These defenses include presentment, demand, notice of demand, protest, notice of non-payment, notice of protest, notice of dishonor and diligence in collection. We reserve the right to modify the terms of the Affiliation Fee Note and/or grant extensions, novations, releases or compromises to you or any co-maker without the consent of, or affecting the liability of, any other party to the Affiliation Fee Note. The Affiliation Fee Note is not subject to setoff, offset or recoupment. If the Membership Agreement terminates for any reason or a "Transfer" occurs, as defined in the Membership Agreement, we may demand that you immediately pay the Affiliation Fee Note in full. If you fail to make any required installment payment on time, we may demand that you immediately pay the Affiliation Fee Note in full. If you do not pay the Affiliation Fee Note within 10 days after it is due, the Affiliation Fee Note will bear simple interest at the rate of the lesser of 18% per annum (1.5% per month) or the highest rate allowed by law. Default under the Initial Fee Note will constitute a default under the Franchise/Membership Agreement. If the Initial Fee Note is collected by or through an attorney, we will be entitled to collect reasonable attorney's fees and all costs of collection.

**Development Incentive Financing.** We may offer certain "Development Incentives" for new construction and conversion Chain Facilities. These incentives are based on various factors and are determined in our sole discretion. These factors may include the number of rooms and location of the proposed Facility, market overview, surrounding hotels, demand drivers, and a feasibility study. The Development Incentive is a loan that is not subject to repayment unless the membership terminates before the end of the term of the Membership Agreement for the Facility or a Transfer occurs. At each anniversary of the Facility's Opening Date, the Development Incentive reduces by 1/20<sup>th</sup> of the original amount, depending on the Term of the Membership Agreement. If the membership terminates or is transferred before the expiration of the Term, you must repay the balance of the Development Incentive. The Development Incentive Note bears no interest except in the case of default, in which case the interest rate will be 18% per annum (1.5% per month) or the highest rate allowed by law. If you must repay the balance of the Development Incentive and fail to make any required payment on time, we may demand that you immediately pay the Development Incentive in full. Default under the Development Incentive Note will

constitute a default under the Franchise/Membership Agreement. We do not require any security for the Development Incentive Note. The Development Incentive Note may be prepaid at any time without penalty. If the Development Incentive Note is collected by or through an attorney, we will be entitled to collect reasonable attorney's fees and all costs of collection.

To receive the Development Incentive, you and your principals, as co-makers, must sign a Development Incentive Note, which will specify the amount of the incentive, in the form attached to Exhibit C-1 when you sign and deliver to us the Membership Agreement. If you and/or your principals are residents of community property or certain other states, your and/or their spouses must also co-sign the Development Incentive Note. In addition, you must sign an addendum to the Membership Agreement, agreeing to make all payments due under the Membership Agreement and ancillary agreements through electronic funds transfers through the ACH (automated clearing house) system. You must provide us with a current balance sheet, loan documents and other information we request, detailing the total cost of the Facility, the amount being financed, and your equity investment in the Facility. If we offer you a Development Incentive, you will not be eligible for any reduction in Affiliation or Recurring Fees and we may require you to retain a third party manager approved by us (see Items 5, 6 and 15).

The Development Incentive will be disbursed after (i) you have passed a final credit review with no material adverse changes in your business, legal, litigation, bankruptcy status, or finances, or of your guarantors or the Facility since preliminary approval, (ii) the Facility officially opens with our consent, (iii) you have completed all required pre-opening improvements specified in the Membership Agreement; and (iv) you have paid the Affiliation Fee. You and your guarantors or co-makers waive traditional defenses, as described above for the Affiliation Fee Note. With or without notice to or consent from you, each guarantor or co-maker, we may grant renewals, extensions, modifications, compositions, compromises, releases or discharges of other parties. If you transfer the Facility, you must repay the balance of the Development Incentive Note unless the transferee and its principals assume the obligation to repay the Incentive and provide us with such other security as we may require in our sole discretion. If you are purchasing an existing Chain Facility and you assume the obligation to repay the unamortized balance of the Development Incentive Note with our consent, you must repay the balance if the membership terminates before the expiration of the Term after your purchase of the Chain Facility.

We may offer to issue the Development Incentive in cash or in the form of a line of credit with WSSI, in our sole discretion as business circumstances warrant.

You may request a Lender Notification Agreement using the forms we provide you. Any lender you select may request a collateral assignment of or security interest in the Membership Agreement, but we have no obligation to enter into any agreement or arrangement with any lender. See Exhibit C-5.

We have no practice or intent to sell, assign or discount to a third party all or any financing arrangement above.

## **ITEM 11. FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING**

**Except as listed below, we are not required to provide you with any assistance. Pre-Opening Assistance**

Before the Chain Facility opens, we will provide this assistance to you:

1. You select the Facility's location and describe it in the Membership Application. We reserve the right to obtain, or to require you to obtain at your expense, as a condition for receiving our approval of the site, a positive market feasibility study prepared by a nationally prominent independent accounting or consulting firm we approve. Since individual sites are necessarily unique, no listing of relevant factors will be applicable to all sites. However, we believe these factors are important: geographical area, population and density, other demographic factors, proximity to transportation, major attractions and destinations, commercial development, traffic patterns, competition, accessibility, and the compatibility of the area with the proposed use. We grant a membership for a Chain Facility for a specific location or site only, and approve your site when we approve your Membership Application. There is no specific time limit in which this approval has to be completed. However, we typically complete our review of your site and the other elements of your Membership Application, and award or decline to award you a membership, within 30 to 60 days after we receive your completed Membership Application and all supporting documentation. By approving your Membership Application we do not represent or promise that a Chain Facility will succeed at that site. Approval of the site only indicates our willingness for you to represent the Chain at that site. (Membership Agreement – Application and Schedule D)
2. If you are converting an existing hotel into a Chain Facility, or in the case of a Transfer, we will inspect the Facility and create a "Punch List" of improvements needed before you open the Facility under our service marks and afterwards. The Punch List is attached to the Membership Agreement when it is signed. (Membership Agreement – Schedule D)
3. For a new construction Chain Facility, a member of our Hotel Integration Team will be available to consult with your architect. We will review and, if appropriate, approve any detailed architectural plans and specifications for constructing a new Facility. We will review any requests to materially modify or deviate from the plans or specifications after they have become "Approved Plans". We may charge you a fee to review such material modifications to your plans or specifications. (Membership Agreement – Schedule D)
4. We may inspect the Facility during or following construction or renovation to determine compliance with System Standards and, where appropriate, approve its opening as a Chain Facility. (Membership Agreement – Schedule D)
5. We will provide you with a copy of, or access to, our Manual which contains the System Standards and any specifications for your Chain Facility. (Membership Agreement – Section 4.7)
6. We will furnish you with written specifications for required products and services, as well as information about Approved Suppliers whose products have been approved for usage, as described in greater detail in Item 8. (Membership Agreement – Section 4.4)
7. We will provide Mandatory Support Services to assist you in opening the Facility. These

Services are not applicable to members renewing their memberships with us. See Item 5 for a more detailed description of our Integration Services and the Integration Services Fee we charge for them. (Membership Agreement - Schedule D)

8. We will provide training to you and your general manager as described in this Item below. (Membership Agreement – Section 4.1)

### **Length of Time Before Opening**

There is no “typical length of time” between the signing of a Membership Agreement or the first payment for a membership, and the Opening Date of the Facility. This is due to the impact of a number of variables including (i) your ability to obtain any necessary financing, (ii) whether the Facility is to be converted from an existing hotel or is to be newly constructed and (iii) the process required to obtain all necessary permits, licenses and approvals from various government agencies.

We have established certain parameters for the pre-opening period. You must provide us with proof of ownership or ground lease of the location within 30 days after we sign the Membership Agreement. In the case of an existing facility newly entering the Chain or an existing Chain Facility being transferred, you must begin renovation no later than 30 days after we sign the Membership Agreement. You must complete the pre-opening phase of the work and be ready, willing and able to open the Facility under the System no later than 90 days after we sign the Membership Agreement. In the case of new construction, you must begin construction of the Facility within 60 days after we execute the Membership Agreement and complete construction and receive our written approval to open the Facility within 14 months after signing the Agreement. (Membership Agreement - Schedule D)

### **Post-Opening Assistance**

After the Chain Facility opens, we will provide you with the following assistance:

1. We will continue to provide you with access to the Manual, as described in this Item below. (Membership Agreement – Section 4.7)
2. We will hold a Chain conference, which may be in the form of a WHR multi-brand conference with special sessions and programs only for our Chain. Currently, we hold a conference approximately every 18 to 24 months, but this is subject to change. We may also hold periodic regional summits throughout the year. (Membership Agreement – Section 3.9)
3. We or our contractor may conduct announced and unannounced inspections and/or mystery shops of the Facility. (Membership Agreement – Section 4.8)
4. We will continue to provide you with operational support and information about the Chain by e- mail, telephone and via the Chain’s Intranet site. In addition, as an option and for a fee, a member of our field support team will visit your Facility to provide on-site operational support provided you are in compliance with your obligations under the Membership Agreement. The fee for this service is \$1,200 per each 8 hour day, with a maximum of three days. You must provide lodging for our field representative for the duration of the paid visit. Our representatives will also

consult with you in person if they are at the Facility for compliance inspections, upon your request. (Membership Agreement – Section 4.6)

5. We and our affiliates will continue to provide you with information about Approved Suppliers. See Item 8 above. (Membership Agreement – Section 4.4)

6. We will provide a computerized Central Reservation System (“CRS”), directly or indirectly through another party or such technological substitute as we may determine, for making reservations at Chain Facilities. See the Technology Systems discussion below. (Membership Agreement – Section 4.2)

7. We will provide a service allowing you to transfer inbound reservation calls, through a toll-free line, where professionally trained agents will answer questions and book reservations on behalf of your Facility or to have certain callers directed automatically to our toll-free line. See Exhibit C-7 for the Signature Reservation Agreement.

8. We will review and, where appropriate, approve requests to add guest rooms to a Facility after receipt of your Rooms Addition Fee. (Membership Agreement – Section 3.12)

9. We offer comprehensive revenue management programs for additional fees. These programs are available at three levels of service for varying fees: Gold, Platinum, and Diamond. No matter the service level, Revenue Management Services (“RMS”) includes varied levels of inventory management, strategic positioning, future demand strategy and targeted promotions and packages. See Exhibit C-8 and Item 6 for additional description of options and fees. In addition:

- Gold RMS is a monthly service that includes monitoring of settings and rates to ensure rate and inventory parity across all applicable distribution channels. You also receive monthly reports, statistics review and a scheduled call with an assigned Revenue Management Specialist.
- Platinum RMS is a bi-weekly service that includes STR review and evaluation, rate and inventory maintenance, as well as scheduled communication and accessibility and bi-weekly meetings with your assigned Revenue Management Specialist.

~~If you are a new construction Facility you must participate in Platinum RMS as part of our Start Up Revenue Management program for four months beginning 30 days after your Facility's Opening Date. The fee for this initial four month period is included in your Affiliation Fee. After the four month period ends, you may participate in Gold, Platinum, or Diamond RMS on an optional basis, with one exception described below.~~

- Diamond RMS is a weekly service that includes inventory management, as well as scheduled communication and accessibility, weekly meetings with your assigned Revenue Management Specialist, and STR review and recommendations.
  - ~~If your Facility has over 200 rooms, you must participate in Diamond RMS for the term of your Membership Agreement. For all other properties, this service is optional.~~ If you are a new construction or conversion property, you

must participate in Platinum RMS as part of our Start-Up Revenue Management program for six months beginning 30 days after your Facility's Opening Date. The fee for this initial six-month period is included in your Initial Fee. We reserve the right to require you to participate in Gold RMS at a minimum if your hotel has 120 rooms or more, or in Diamond RMS if you do not have an outside revenue manager and we determine one is needed based on your hotel's occupancy, but otherwise you may participate in any level of RMS on an optional basis (in all cases following the conclusion of the Start-Up Revenue Management period, if applicable).

10. We also offer Short Term Revenue Management Services for a period of 90 days. This service will compile relevant commercial information, align PMS and CRS systems, assist with distribution and annual selling strategy. See Item 6 for additional description of options and fees.

11. We will provide you with a cloud computing resources called Medallia, which will aggregate all reviews regarding the Facility from ~~TripAdvisor~~ [Tripadvisor](#) and other major online travel agency sites, as well as customer surveys.

12. We will provide the option to participate in third party competitive rate shop programs across key distribution channels. These third parties may charge monthly fees for their services.

## **Marketing and Advertising**

We will engage in advertising and marketing activities funded by the Marketing Fees that members pay us to promote the Trademark Collection network and to maximize the general public recognition, acceptance or use of Trademark Collection. The marketing may include various forms of advertising and promotion activities using any media we deem appropriate. Specific advertising activities may include: online, broadcast, print media, sponsorships, e-mail and direct mail. Advertising may be created and placed internally or by advertising agencies with the participation and supervision of in-house staff. The Fund (as defined below) may also be used to pay for e-commerce, market research, public relations, guest services, training, the Central Reservation System, distribution and the staffing of sales offices which generate corporate, government, tour and other bookings at Trademark Collection hotels and other marketing support. We select the nature and type of advertising copy, media placement or other aspects of the marketing program. Media coverage may be local, regional or national. We do not have to expend any portion of the Fund or otherwise for marketing or advertising in your trading area or territory and we do not promise that your Facility will benefit directly or proportionately from marketing activities.

Each member's Marketing Fee will be deposited into a marketing fund (the "Fund"). The amount of this fee is 2.5% of Gross Room Revenue. It is our intention that all or at least substantially all Members contribute to the Fund on an equal basis.

The Marketing Fees are not held in trust and we do not manage the Fund in a fiduciary capacity, although they are separately accounted for on our books. We administer and apply the Fund at our discretion. We are not required to, nor do we have the Fund audited. We do not provide reporting to you or other members about its finances. Any monies remaining in the Fund at the

end of the year (or deficiencies where the amount of money spent exceeds the Fees collected for the year) will be carried over into the following year. The Fund may be used to compensate us or an affiliate for any administrative or other services, such as expenses incurred for accounting, data processing collection, bookkeeping, reporting, computer system maintenance and legal services which we or the affiliate provide to support marketing activities, the Central Reservation System and for our out- of-pocket costs. In addition, we or an affiliate may provide products or services to the Fund. We may earn a profit on these products and services. However, any such products or services will be provided by us or an affiliate at a cost comparable to the cost that would otherwise be charged by unaffiliated third parties. In ~~2018~~2019, expenditures for marketing from the Fund were used as follows: ~~19.1~~13.1% for media placement, ~~12.5~~4.1% for production, ~~0.1~~1.5% for promotions and sponsorships, ~~2.1~~8.2% for administration, and ~~66.2~~73.1% for other expenses (i.e., public relations, guest services, training, group and corporate sales, and field services). In ~~2018~~2019, no funds were utilized principally to solicit the sale of new memberships.

You may conduct your own local marketing program provided that all materials conform with Systems standards, including proper Mark usage, or are approved in writing by us. We may, at our option, offer you advertising copy and other marketing materials for such prices which reasonably cover our direct and indirect costs.

We presently do not have an advertising council or ~~advertising cooperatives~~a marketing and sales cooperative, nor are you required to participate in a local~~-or~~, regional ~~advertising or market segment based marketing and sales~~ cooperative, although we consult from time to time with groups of members to solicit their views and input. However, in the future, we may establish these bodies in the future and require your participation and funding of them.

## Technology Systems

*Central Reservation System.* We will provide a computerized CRS or a technological substitute as we may determine, for making reservations at Chain Facilities. (Membership Agreement - Sections 4.2, 7.1)

During the Term, the Facility will participate in the CRS on an exclusive basis, including entering into all related technology agreements and complying with all terms and conditions we establish for participation. The Facility may not book any reservations through any other electronic reservation system, booking engine or other technology.

We can independently access your electronic information and data, and collect and use this electronic information and data in any manner we choose, without any compensation to you.

*Property Management System.* You must select and procure a PMS, including computer hardware and software and Internet access service so that the Facility can interface with the CRS.

The PMS books reservations, performs check-in and check-out functions, manages rates and inventory, collects and transmits to the enterprise data warehouse certain information collected about each guest, automates the front desk and operational record keeping of the Facility, and interfaces with other electronic systems at the Facility. We will consult with you to assist in

determining the appropriate PMS product for your Facility.

We currently have two approved systems under our technology standard. We may, at our option, change or make exceptions to our PMS technology standard.

1. **OPERA PMS:** The OPERA system from Oracle is available in three levels of sophistication depending on the needs of the Facility. If you procure an OPERA system, the databases, servers, application servers, and storage are housed in the Oracle data center and not at the Facility. We may require you to utilize tokenization technology for the transmission of credit card information, and Oracle may require that a tokenization provider be selected as part of the OPERA PMS. Facilities must also have an OPERA interface PC and any required work stations.

If you choose to subscribe to the OPERA PMS the licenses required to operate the PMS through the subscription based OPERA SaaS Model are offered by Oracle under the Oracle Master Agreement: General Terms and Schedules P & C found in Exhibit C-3. You will pay us a one-time set-up and implementation fee that ranges from \$12,925 to \$23,075 plus additional amounts for interfaces that may be required (\$3,150 per OXI Interface, \$5,000 per EMV Interface and \$450 per each additional interface). This fee range includes installation and the installers' travel and the right to use the OPERA software. If you elect this system, you will pay Oracle a monthly subscription fee that ranges from \$3.25 to \$5.12 per room. This fee range includes support of the OPERA application, database backups and the hosting fees. The fee range does not include additional interfaces that may be required. In addition, you will pay us a monthly OPERA Support, HTCS and CRISP fee which will range from \$346 to \$752 as described in the OPERA Supplemental Services Agreement. See Exhibit C-4. HTCS services include, but are not limited to, support for technology applications we offer you, such as the CRS and PMS vendor management. Facilities connect to the Oracle data center via their own broadband connection, which must meet certain requirements as specified by Oracle.

OPERA LITE	OPERA STANDARD	OPERA PREMIUM
<b>Oracle Monthly Fee</b>		
\$3.25 per room plus \$0.17 per room for EFT Interface and \$0.20 per room for all other Interfaces	\$3.93 per room plus \$0.17 per room for EFT Interface and \$0.20 per room for all other Interfaces	\$5.12 per room plus \$0.17 per room for EFT Interface and \$0.20 per room for all other Interfaces
<b>One-Time Set Up &amp; Implementation Fee (Includes travel, installation and Central Reservation Interface)</b>		
\$12,925 plus \$450 per Interface, \$5,000 EMV Interface, and \$3,150 per OXI Interface	\$17,700 plus \$450 per Interface, \$5,000 EMV Interface, and \$3,150 per OXI Interface	\$23,075 plus \$450 per Interface, \$5,000 EMV Interface, and \$3,150 per OXI Interface
<b>OPERA Support, HTCS &amp; CRISP Services Fees (Billed Monthly)</b> <b>Monthly Service Fee can be increased up to 5% each year.</b>		
\$346 - \$470	\$360 - \$752	\$362 - \$752

2. **SynXis PMS:** [You may subscribe to Sabre Hospitality Solutions' SynXis PMS, which is](#)

[a software as a service solution for property management. ~~Members may subscribe to Sabre's SynXis PMS which may include an automated revenue management tool that will help you~~](#)

~~manage and optimize your rates.~~ The SynXis PMS also integrates with Elavon Inc.'s Fusebox gateway, which provides credit card processing capabilities designed to support tokenization and chip and pin technology. ~~You must sign an agreement with Elavon for this gateway in~~ order for the SynXis PMS to function properly. ~~You, you~~ must simultaneously sign the SynXis Subscription Agreement (Exhibit C-2(a)) and the ~~Elavon~~ Hosted Services Agreement with Elavon (Exhibit C-2(b)), which may include additional services and fees.

If you choose SynXis, you must pay a one-time \$3,400 set-up fee which includes deployment and installation, at least 30 days before the Opening Date of the Facility. The hardware for the SynXis PMS can be purchased separately from an affiliate or from another source if it meets our specifications. The monthly subscription price for the SynXis PMS is \$593.25, which price includes up to three interfaces ~~in addition to required.~~ The tokenized credit card interface and revenue management, upon availability, an interface for an automated rate audit solution are included in the monthly price and count towards the three included interfaces. You will also pay a \$50 per month ~~Mobility~~ Mobile Check-in Interface Fee once available. The monthly subscription fee includes training and monthly support. You will be required to subscribe to any future SynXis upgrade when it becomes available, which may include additional services and fees. You may be required to execute a new SynXis Agreement, or amend your current SynXis Agreement.

<b>Sabre SynXis Property Manager</b>	
<b>Targeted Property Size</b> (rooms)	Less than 180
<b>Target Audience</b>	Limited or select service Facilities requiring core PMS functionality, no meeting space, no food and beverage, limited workstations.
<b>Estimated Cost (monthly fee includes HTCS and CRISP fees)*</b>	\$593.25 per month plus the \$3,400 Set-up Fee
* Monthly support costs may be increased up to 5% per year on a cumulative basis.	

We may require you to purchase additional or replacement communications hardware or software, additional random access memory or additional hard disk storage to keep pace with changes in technology. There is no contractual limitation on the cost or frequency of this obligation. Neither we, Sabre nor Oracle has any obligation to modify, enhance or rewrite the PMS software for the SynXis or OPERA systems. If we or Sabre modifies, enhances or rewrites the SynXis PMS Software and you are not in default under the SynXis Agreement or the Membership Agreement, we will provide to you and you must install the modified software in accordance with our Chain-wide distribution plan. Oracle may charge you for enhancements or upgrades to OPERA software.

*Network Connectivity Services.* You must obtain network connectivity to enable your PMS to interface with the CRS. For any of the PMS options described above, you may procure network connectivity through a broadband Internet connection from an ISP, for which you must pay the ISP's service fee. Regardless of the PMS option you choose, your network connectivity must meet the system requirements required by Sabre for a SynXis PMS or Oracle for an OPERA PMS, as applicable.

*Preventative Maintenance Software/Mobile Operations Support Tool.* If you require assistance tracking your preventative maintenance needs, as measured by your Facility (i) scoring 80% or

lower (or its then equivalent) on a quality assurance inspection or (ii) receiving an average Medallia overall score for the preceding 12 month period less than 6.0 (or its then equivalent score), we will require you to subscribe to a preventative maintenance software service, including a mobile application, provided by a third party to help you manage your housekeeping and maintenance processes. The fee for this software is currently not more than \$1,500 annually. We may offer as an option or, in the future, mandate a software service program and provider.

~~We may in~~If you subscribe to the future SynXis PMS, we offer, for a fee, ~~an optional~~ mobile device-based system, (MOP), for managing and automating tasks such as housekeeping, maintenance and guest support functions at your Facility. If you enroll for this service, we currently offer an optional Emergency Safety Device system, for an additional fee. With written notice, we may mandate such a system and supplier in the future, by updating System Standards.

*Intranet Portal.* We will provide access to a proprietary company intranet where you can access brand specific information, including System Standards and corporate communications specific to Chain and WHR initiatives. We will offer tools to help support your business including site reporting, industry reporting, bill payment, marketing, Global Sales, Loyalty and Revenue Management resources as well as access to ratings and reviews, and corporate information. We may, in the future, charge a fee for the support and maintenance of this service.

*Other Obligations.* You must offer wireless high speed Internet access in all guest rooms, meetings rooms, and public areas at the Facility.

We offer, as an option, a WiFi Solution called Wyndham WiFi. If you choose to participate you will sign an agreement with a third party vendor for equipment and installation and an agreement with us for support under our Hotel Connectivity Solutions<sup>sm</sup> Agreement. See Item 6 and Exhibit C-9.

## **Confidential Standards of Operation and Design Manual**

We will provide you with access to the Standards of Operation and Design Manual and any other manuals for members which contain specifications for the construction or renovation and operation of the Facility under the System. The Wyndham Rewards Front Desk Guide is a System Standard. These Manuals and System Standards may be amended. The table of contents of the Manual consisting of 232 pages is attached in Exhibit F. (Membership Agreement – Sections 4.5, 4.6, 4.7)

## **Training**

WHR's hospitality operations training team offers a variety of mandatory and optional training programs, seminars, online training and other training resources.

All personnel employed at your Facility in those positions we designate to receive training must attend and successfully complete our initial training program and other training programs we may require. These programs and their fees are described below. In addition, you are responsible for your employees' travel, lodging and meal expenses and wages while attending any training program.

*Training Administration.* We maintain a staff of field-based training professionals who conduct training regionally and at the hotel level. Each of these trainers has an operational and/or human resources background with us and with other hotel companies. We also draw upon the experience of other officers and employees of us and the Lodging Affiliates in conducting training.

*General Manager Certification.* We will provide training to your general manager in our Hospitality Management Program (“HMP” or the “Program”). This training will be approximately 5 days long. It is held in our corporate offices in Parsippany, NJ, as well as at locations local to our corporate offices or central locations in North America. PowerPoint presentations, participant manuals and additional content driven handouts are utilized during the training. We reserve the right to require the General Manager of your hotel to recertify by attending General Manager Certification training (currently known as HMP), every eight years at the then current tuition.

~~Required attendees must complete to our satisfaction all components (including any pre-course activities or related diagnostic assessments) as outlined below unless stated otherwise in the Membership Agreement.~~ If we do not offer the Hospitality Management Program training within the specified time period, required attendees must complete the next available program.

- Initial general manager: no later than 90 days after the Facility’s Opening Date;
- Replacement general manager: no later than 90 days after he/she assumes responsibility as a general manager; and
- If you own more than one Chain Facility, you must send your initial and any replacement general manager from each Facility to training.

The tuition fee is ~~\$2,000~~2,250, if the initial general manager attends and successfully completes this mandatory training program and all related components to our satisfaction within the timeframe noted above. If the general manager does not attend training as required, you must pay the initial tuition in addition to the tuition then in effect at the time of your general manager’s attendance. Additional employees of the Facility may attend ~~the Hospitality Management Program~~HMP with your general manager at a tuition fee of \$1,400 per attendee. If you are an owner and ~~you would likewish to accompany your general manager to the Hospitality Management Program~~attend training, you may do so ~~forat~~ the tuition fee of \$1,400. ~~Tuition for these programs is subject to increase and is not refundable~~You are responsible for all travel, lodging and meal expenses for you and your attendees.

~~In 2019~~Human Trafficking Prevention Training. In addition to HMP Training, each general manager is required to take our Human Trafficking prevention training course no later than 90 days after the Facility opens, and within 90 days of a subsequent general manager’s start date. Your general manager must complete the course biennially, within two calendar years from the last completed training. The material for this course is delivered via Wyndham University’s web-based training module. There is currently no fee for this training. If your general manager plans to receive similar human trafficking prevention training from a third party, the course must be pre-approved if you wish for it to satisfy this requirement. In addition, your general manager must certify on a biennial basis that he or she has trained or caused the training of hotel staff in human trafficking prevention. We will provide training resources to assist in satisfying this

[requirement through Wyndham University and the Chain's Intranet Portal.](#)

[Opening Training. If your Facility is a new construction hotel, you are required to participate in opening training. This training is conducted on site at your Facility anywhere from two weeks prior to, or up to 30 days after, the Facility's Opening Date. The duration and fee for this training is dependent on the size of your Facility as follows: \\$750 for 0-50 rooms \(1 day\), \\$2,250 for 51- 200 rooms \(up to 3 days\) and \\$3,750 for 200+ rooms \(up to 5 days\), plus travel, lodging and meal expenses of the facilitator. Training topics include Count on Me service culture, Housekeeping, Front Desk, and Wyndham Hotels & Resorts Tools and Resources. PowerPoint presentations, participant manuals, additional content driven handouts and activities are utilized during this training.](#)

[In 2020, we plan to offer HMP training approximately 1011 times spread out over the year, in either our corporate offices in Parsippany, NJ, a location local to our corporate offices, or at central locations in North America. We reserve the right to require attendance at specific locations based on the region in which the Facility is located. Human Trafficking Prevention Training is available online at any time via Wyndham University and our Intranet Portal. Opening Training will be conducted at each Facility anywhere from two weeks prior to, or up to 30 days after, the Facility's Opening Date. Required attendees must complete all training components to our satisfaction, \(including any pre-course activities or related diagnostic assessments\) as outlined below unless stated otherwise in the Membership Agreement. Tuition for these programs are subject to increase and are non-refundable.](#)

**TRAINING PROGRAM**

**HOSPITALITY MANAGEMENT PROGRAM** ~~This chart shows~~

[The charts below show a summary of ~~this program~~these programs as ~~it~~they existed on December 31, 20182019.](#)

**TRAINING PROGRAM**

<b>HOSPITALITY MANAGEMENT PROGRAM</b>			
<b>Subject</b>	<b>Hours of Classroom Training</b>	<b>Hours of On- The-Job Training</b>	<b>Location</b>
Organization and Brand Overview	5 hours	None	Corporate designated location
Sales and Marketing Management	4 hours	None	Corporate designated location
Revenue Management and Tools	5 hours	None	Corporate designated location
Customer Experience / Quality Assurance	4 hours	None	Corporate designated location
Property Operations and Tools	6 hours	None	Corporate designated location
Leadership and People Management	5 hours	None	Corporate designated location
<b>HUMAN TRAFFICKING PREVENTION TRAINING</b>			

TM MB
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<u>Subject</u>	<u>Hours of Classroom Training</u>	<u>Hours of On-The-Job Training</u>	<u>Location</u>
<u>Human Trafficking Prevention - detection, prevention, and assistance</u>	<u>1 hour</u>	<u>N/A</u>	<u>Virtual</u>
<b>OPENING TRAINING</b>			
<u>Subject</u>	<u>Hours of Classroom Training</u>	<u>Hours of On-The-Job Training</u>	<u>Location</u>
<u>Count on Me Certification, Housekeeping, Front Desk, WHR Tools including: MyPortal, Electronic Payment Tool, Medallia, and STR reports</u>	<u>Dependent on Days of Training: 8 – 40 hours</u>	<u>Dependent on Days of Training: Up to 30 hours</u>	<u>Your Facility</u>

Notes:

~~1. — WHR’s training team is headed by Patricia Lee, Executive Vice President, Global Learning and Development and Chief Social Responsibility Officer. She has over 18 years of experience in the hospitality industry and approximately 14 years of experience with our former parent, Wyndham Worldwide Corporation, and a year of experience with WHR, the Lodging Affiliates and us. The hospitality industry experience of the rest of the learning team staff ranges from 1 to 4041 years, with an average (mean) of 1518 years. Their experience with WHR, its predecessors, the Lodging Affiliates and us ranges from 1 to 3233 years, with an average (mean) of 15 years.~~

*Remedial Training.* We may require you, your GM and/or Facility staff to participate in a remedial customer experience assessment or training if the Facility receives (i) a “D” or “F” (or equivalent score) on a quality assurance inspection, (ii) a score of 6.0 (or then equivalent score) or below in consumer feedback responses, (iii) experiences significant complaints to our Customer Care Department, as determined by us in our sole discretion, or (iv) if at the time of the Facility’s first post-opening Quality Assurance inspection, the Facility receives a failure rating on guest room cleanliness or an average service score of “D” or “F” (or equivalent score). The assessment or training may take the form of an online tutorial for a fee of \$250, or depending on need, a one to two day, remedial class on housekeeping for an additional fee of up to \$1,250, which may be offered at our corporate offices, at a regional location, or at the Facility. If the assessment or training is conducted at the Facility, you must provide complimentary lodging for our representative. Fees are subject to change by modifying System Standards.

*Product Quality Training.* For additional and/or repeated instances of cleanliness or service failures, we reserve the right to require additional on-site training that can range from 1-10 days and cost between \$1,500 - \$5,000, plus the cost of travel and lodging for our instructor(s). Fees are subject to change by modifying System Standards.

*Continuing Education.* We offer a comprehensive curriculum of hotel operations training. This

training is available to all hotel team members and delivered in the form of live workshops, webinars, playbacks, online courses, videos, job aids, checklists, discounts to industry memberships/certifications, etc. Training topics include Guest Loyalty, Hotel Culture, Guest Service, Leadership/People Management, Quality, Revenue Management/Generation, Sales/Marketing, Financial Management, Reputation Management, Food and Beverage, Social Responsibility, Hospitality Law, Hotel Systems (keystroke and best practices) and more.

The cost of ongoing learning and development support for your entire hotel team is \$1,200 per year. This fee includes (i) the tuition for two (2) regional workshops, (ii) access to the Wyndham University, WHR's learning management system, for your entire hotel team and (iii) service culture support and training materials.

*Optional ~~On-Site~~New Owner Orientation.* At your option, if you have not previously owned a Chain facility or any hotel licensed by the Lodging Affiliates, you may participate in our New Owner Orientation training. This training will cover topics including: Design and Construction, Brand Standards, Global Sales, and Revenue Management. This program will be offered approximately two times a year in either our corporate offices in Parsippany, NJ, a location local to our corporate offices, or at a central location in North America. The cost is \$2,000 per attendee for up to a 3 day program plus you will be responsible for your travel, lodging and meal expenses. There are no additional facilitator costs with this training.

*Optional Onsite Training.* At your request, we may provide on-site training at your Facility for your front desk, restaurant, reservations, housekeeping, engineering, and/or other operations employees before and/or after the Facility opens. We will determine the number of facilitators and the length and content of the on-site training based on our assessments of your requested training. The cost of any on-site training starts at \$750 per day plus travel and lodging expenses for the facilitator(s). Final cost is dependent on the type of training, time and resources required.

*Wyndham Rewards Training.* We reserve the right to require all Chain Facilities to participate in a training program on our customer loyalty program, Wyndham Rewards. All managers must complete a manager specific web-based training and all front desk associates must complete a general web-based training.

*Conferences.* We require general managers to attend an annual national leadership conference. The national leadership conference will typically be held every 12 to 18 months and may be included as part of a WHR multi-brand conference. Costs for these conferences are determined annually and billed back to you even if you do not attend the conference.

*Regional Meetings.* Certain personnel employed at the Facility may be required to attend periodic meetings held to address matters of general interest to the System. We will establish the locations where these programs are offered. If you participate in any of these programs, you must pay any tuition we establish for the program as well as the travel, lodging and meal expenses and wages for your personnel attending it.

*No-Show and Cancellation Policy.* If you or your general manager, or any other member of your staff you designate, fails to register for a required training program within the required time period, or registers for a training program but fails to attend such program as scheduled without notifying us in advance, whether such attendance is required or optional, we may charge you a

No-Show Fee of up to 100% of the tuition for the program. If you, your general manager or any other member of your staff cancels participation in any training program less than seven (7) days before it is scheduled to be held, we may charge you a Cancellation Fee of up to 50% of the tuition for the program. No-Show and Cancellation Fees are in addition to the tuition you will have to pay at the then offered rate when you or your general manager attends the program. We may assess you additional No-Show or Cancellation Fees for continued failures by you.

## ITEM 12. TERRITORY

The membership is for the development and operation of a single Chain Facility at a specified location. In general, we do not permit you to relocate the Facility. We do not usually grant members options, rights of first refusal or similar rights to acquire other Chain Facilities.

Our standard Membership Agreement does not provide an exclusive or protected territory. You may face competition from other Chain Facilities, other guest lodging facilities operating under the Trademark tradename, franchisees of our Lodging Affiliates, from outlets that an affiliate of ours owns or manages or from other channels of distribution or competitive brands that an affiliate of ours controls. This may include transient lodging facilities, ~~time-share~~timeshare resorts, vacation or residence clubs, fractional ownership residences, condominiums or the like which are owned, managed or franchised by our current or former affiliates or by subsequently acquired companies or brands. These competitive outlets could be adjacent, adjoining or proximate to your Chain Facility. You will not receive an exclusive territory.

When business circumstances warrant, however, we may in our sole discretion agree to some measure of territorial protection after considering various relevant factors like the size and characteristics of the relevant hotel trading market and your Facility, demographics, concentration and proximity of demand generators, such as meeting and convention facilities, commercial offices, businesses, tourist attractions, and other factors. If we agree to territorial protection, we will not open or license anyone else to open a Chain Facility within a defined area for a certain period of time. Territorial protection would not include protection from (i) the establishment of hotels, timeshares, vacation or resort properties or other lodging facilities under other brands that we or our current or former affiliates own, manage or franchise, or (ii) the conversion of another hotel to a Chain Facility as a result of an acquisition. In addition, any Chain Facility located within the protected territory when your Membership Agreement becomes effective may have its membership renewed or reissued, expanded for additional guest rooms or, if its membership terminates or is not renewed, replaced with a replacement Chain Facility having not more than 120% of the guest rooms of the replaced Facility, located within the same protected territory. Therefore, you will not receive an exclusive territory.

We and our affiliates have the right to own, develop and operate, and to license others to develop and operate, hotels and lodging facilities (including, without limitation, upscale, luxury, select service, resort and garden hotels and extended stay facilities), timeshare or vacation ownership resort properties, restaurants or other business operations of any type whatsoever, under the Proprietary Marks, the Trademark tradename, or under other trade names, trademarks and service marks described in Item 1, at any location except the location specified for the Facility, including locations adjacent, adjoining or proximate to the location specified for the Facility, and that these business operations may compete directly with and adversely affect the operation of the Facility.

Any conflicts between you and us regarding territory, customers and our support will be resolved under the Membership Agreement. We have no procedure for resolving conflicts between you and franchisees of other brands. However, any resolution of any conflicts regarding territory, customers or support services will be entirely within our discretion.

If we decide to grant you a protected territory, the territory may be defined in the Membership Agreement as a radius from the front door of the Facility or an irregular area bound by one or more streets, highways, governmental jurisdiction boundaries or natural boundaries, or by latitude and longitude and described in words, depicted on a map, or both. There is no minimum protected territory that we offer. Continuation of such territorial exclusivity will typically not depend on your Chain Facility achieving certain sales volume, market penetration or other contingencies. We may operate, lease, manage, or license any other party to operate a Chain Facility in the Protected Territory beginning (a) six months prior to the expiration of your Membership Agreement, or (b) as of the date that a date for the premature termination of your Membership Agreement has been confirmed in writing by us.

We will not restrict you or any other members from soliciting or accepting guest reservations from inside or outside of your local market, including through telemarketing, direct mail, on-line marketing or other means, providing that you comply with applicable law. However, the Facility must not book reservations through any electronic reservation system, booking engine or other channel other than our central reservation system or through approved consumer website(s) or third party distribution sites unless permitted under our System Standards or with our prior written consent. You will participate in System marketing programs in which you make a commitment to serve guests according to the terms of the programs.

In addition, we provide information about and book reservations for hotels operating under the Trademark tradename, or hotels franchised by the Lodging Affiliates through our toll-free reservation number or an approved consumer website. You will receive no compensation for our sales through our distribution channels, unless we make a reservation on your behalf, in which case, you will receive the revenue from the reservation. We will prioritize Chain Facilities over other hotels in a destination if there is room availability at a Chain Facility, it meets the guest's search criteria, including closest proximity to a point of reference or point of interest, and it is not in default under its Membership Agreement. The Lodging Affiliates have reciprocal programs for booking reservations at Chain Facilities. We have the right to provide reservation services to lodging facilities other than Chain Facilities or to other parties.

### ITEM 13. TRADEMARKS

We will grant you the right to operate your Facility under the mark, “Trademark MarksCollection” in conjunction with the “by Wyndham” designation, or any new marks which may be included in the System. A Trademark Collection Chain Facility will retain its existing name, or adopt its own name from opening as its primary designation, with “Trademark Collection by Wyndham” secondary designation, or change their name to a Trademark Collection by Wyndham [location] as the primary designation for marketing and any signage purposes. We may ask or permit you to ~~use other Marks that we include as part of the System in~~ utilize a secondary or additional secondary designation with the licensed Mark for the future Facility.

~~We own the~~The following service marks (the “Marks”) ~~that are~~ are registered ~~or pending registration~~ on the principal register of the United States Patent and Trademark Office.

MARK	REGISTRATION NO./APPLICATION NO.	REGISTRATION DATE/APPLICATION DATE
<del>TM TRADEMARK HOTEL COLLECTION and Design Mark</del>	5,325,869 <u>Registration No.</u>	<del>Oct 31 2017</del> <u>Registration Date</u>
TRADEMARK	5,308,444	Oct-10-2017
TRADEMARK COLLECTION	5,541,864	Aug-14-2018
TRADEMARK COLLECTION BY WYNDHAM	5,619,226	Nov-27-2018
<del>TRADEMARK HOTEL COLLECTION</del> 	5,308,447 <u>5,761,562</u>	<del>Oct 10 2017</del> <u>May-28-2019</u>
<del>TRADEMARK HOTELS &amp; RESORTS</del> 	Appl. No. 87320718 <u>5,739,037</u>	<del>Feb 1 2017</del> <u>Apr-30-2019</u>

The “Trademark Collection by Wyndham” ~~mark is~~ marks are jointly owned by us and Wyndham Hotels and Resorts, LLC<sup>1</sup>, a ~~Wyndham Hotel Group~~ WHR subsidiary. The other above Marks are owned by us. The Trademark License Agreement between Wyndham Hotels and Resorts, LLC, and us to use the “by Wyndham” designation has a term which extends until March 31, 2043. We are required under the Trademark License Agreement to ensure that all Facilities utilizing the Mark meet our quality assurance standards.

~~There~~ Except as described above, there are no other agreements that currently ~~in effect which could significantly limit~~ our right to use or ~~to sublicense such~~ license the Marks in a manner material to you the franchise.

Your right to use the Marks and any other symbols, logos, insignia, trademarks or service marks developed for or with your Trademark Collection hotel is derived solely from the Membership Agreement and is limited to the conduct of business under and in compliance with the Membership Agreement and all applicable specifications, standards and operating procedures we prescribe during the term of the Membership Agreement. Any unauthorized use of the Marks by you will constitute an infringement of our rights in and to the Marks. You may not use the Marks in your corporate name, partnership name, tradename, name of any business entity, legal name, social media profile or handle name, or in any Internet address or domain used to identify a site on the Internet unless otherwise approved by us, but you may use a Mark in an assumed business or trade name filing which includes the full name of the property as designated in the Membership Agreement. You must cooperate to provide us with documents or other evidence necessary to obtain protection for the Marks or to maintain their continued validity and enforceability. As between us, we and our affiliates own all rights in the Marks and associated goodwill. You may

<sup>1</sup> References to Wyndham Hotels and Resorts, LLC in this Item 13 mean the owner of the “Wyndham” family of trademarks and not our ultimate parent, Wyndham Hotels & Resorts, Inc.

not contest our or their interest in the Marks, or assist anyone else to do so.

You must promptly notify us of ~~(i) any adverse or infringing uses~~ unauthorized use of the Marks ~~(or names or symbols marks that are~~ confusingly similar), ~~confidential information or other System intellectual property,~~ or ~~(ii) any threatened or pending litigation related to the System against (or naming as a party) you or us of which you become aware. We alone handle disputes with third parties concerning use of all or any part of the System. You will cooperate with our efforts to resolve these disputes~~ to the Marks. You must notify us of any challenge to your right to use, or the ownership of, the Marks. We alone have the right to control any proceeding or litigation involving the Marks, including any settlement. We need not initiate suit against imitators or infringers who do not have a material adverse impact on your Facility; or any other suit or proceeding to enforce or protect the System in a matter we do not believe to be material. We also have the right to keep all sums obtained in settlement or as a damages award in any proceeding or litigation without any obligation to share any portion of the settlement sums or damages award with you. You will cooperate with our efforts to resolve these disputes.

We will indemnify, defend and hold you harmless, to the fullest extent permitted by law, from and against all "Losses and Expenses" (defined in Appendix A of the Membership Agreement), ~~incurred by you incur~~ incur in any action or claim alleging that your proper use of the ~~System and any property we license to you is an infringement of a third party's rights to any trade secret, patent, copyright,~~ Marks is an infringement of a third party's rights to any trademark, service mark or trade name (Membership Agreement – Section 8.3). You will promptly notify us in writing when you become aware of any alleged infringement or an action is filed against you. You will cooperate with the defense and resolution of the claim. We may resolve the matter by obtaining a license of the property for you at our expense, or by requiring that you discontinue using the infringing property or modify your use to avoid infringing the rights of others.

We may substitute different marks for, or modify the current Marks if the current Marks can no longer be used, or if we determine in our sole discretion that the substitution or modification will be beneficial to the System. You may be required, at your expense, to discontinue or modify your use of any of the Marks or to use one or more additional or substitute names, marks or other identifying symbols.

There are no currently effective material determinations of the United States Patent and Trademark Office, Trademark Trial and Appeal Board, the trademark administrator of any state or any court; no pending material infringement, opposition or cancellation actions; nor any pending material federal or state court litigation involving the Marks other than as may be stated in this Disclosure Document. We are aware of non-material, unauthorized use of one or more of the Marks as part of third party domain names. We are not aware of superior prior rights or infringing uses of the Marks that could materially affect your use of them.

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#### **ITEM 14. PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION**

There are no issued patents or patent applications that, as of the date of this Disclosure

Document, are material to the ~~franchise~~[System](#) or part of your Membership Agreement. We claim copyright protection in all copyrightable materials developed for our business, including the [System Standards](#), Manual, ~~videotapes~~[videos](#), training materials, marketing materials (including all advertising and promotional materials), architectural drawings, building designs, interior design manuals and guidelines, ~~logos~~, proprietary fabrics, artwork and furnishings, [logos](#), and business and marketing plans, whether or not registered with the U.S. Copyright Office (“Copyrighted Materials”). ~~We own or license copyrights and patents in the PMS software~~  
[Under the Membership Agreement, we may revise the System Standards and you must comply with those changes.](#)

We have an agreement with Sabre as our PMS technology partner, under which Sabre offers software as a service solution for property management. We will license to you the right to use the SynXis PMS for the term of your Membership Agreement, subject to obsolescence or any other early termination of your SynXis Agreement. We can sublicense the SynXis PMS to you under our contractual arrangements with Sabre. Limitations on the use of the SynXis PMS are described in Exhibit C-2(a).

If you choose an OPERA PMS for your Facility, you will license the OPERA software directly from Oracle Hospitality and not from us. See Item 11 and Exhibit C-3.

You must take all appropriate actions to preserve the confidentiality of our trade secrets, our other ~~proprietary~~ information not generally known to the lodging industry, or other information we otherwise impart to you or your representatives in confidence, including the Manual and other documents (the “Confidential Information”). Access to Confidential Information should be limited to persons who need the Confidential Information to perform their jobs and are subject to your general policy on maintaining confidentiality as a condition of employment or who have first signed a confidentiality agreement. You will not permit copying of Confidential Information (including, as to computer software, any translation, decompiling, decoding, modification or other alternation of the source code of this software). You will use Confidential Information only for the Facility and to perform under your Membership Agreement. We will respond to any inquiry from you about continued protection of Confidential Information.

All Copyrighted Materials and Confidential Information are owned exclusively by us. Your right to use Copyrighted Materials and Confidential Information is derived solely from the Membership Agreement and is limited to the conduct of the business under and in compliance with the Membership Agreement and all applicable specifications, standards, and operating procedures we prescribe during the term of the Membership Agreement. Any unauthorized use of our Copyrighted Materials or any unauthorized use or disclosure of Confidential Information will constitute an infringement of our rights in and to the Copyrighted Materials and Confidential Information.

There is currently no litigation pending involving the Copyrighted Materials or Confidential Information. We do not know of any effective material determinations of the U.S. Copyright Office or any court regarding any of the Copyrighted Materials or Confidential Information. There are no agreements in effect that significantly limit our right to use or license the Copyrighted Materials or Confidential Information.

~~We will indemnify you against third party claims that the copyrighted materials we provide to~~

~~you infringe the property rights of a third party, in the same manner as we will indemnify for trademark infringement. This obligation is contingent on you modifying or discontinuing the use of the infringing copyrighted materials. You must notify us promptly of any infringement claims.~~

~~[Remainder of Page Intentionally Left Blank]~~You must notify us promptly of (i) any adverse or infringing uses of the Copyrighted Materials, Confidential Information or other System intellectual property, or (ii) any threatened or pending litigation related to the System against (or naming as a party) you or us of which you become aware. We alone handle disputes with third parties concerning use of all or any part of the System. You will cooperate with our efforts to resolve these disputes. We need not initiate suit against imitators or infringers who do not have a material adverse impact on your Facility, or any other suit or proceeding to enforce or protect the System in a matter we do not believe to be material. We also have the right to keep all sums obtained in settlement or as a damages award in any proceeding or litigation without any obligation to share any portion of the settlement sums or damages award with you. You will cooperate with our efforts to resolve these disputes.

We will indemnify, defend and hold you harmless, to the fullest extent permitted by law, from and against all Losses and Expenses, you incur in any action or claim alleging that your proper use of the System and any property we license to you, including the Copyrighted Materials or Confidential Information, is an infringement of a third party's rights to any trade secret, patent, copyright, trademark, service mark or trade name for as long as the Membership Agreement is in full force and effect. You will cooperate with the defense and resolution of the claim. We may resolve the matter by obtaining a license of the property for you at our expense, or by requiring that you discontinue using the infringing property or modify your use to avoid infringing the rights of others.

#### **ITEM 15. OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS**

You do not have to participate personally in the direct operation of your Facility although we recommend that you do so. If you do not personally manage the Facility, you must hire a management company or individual manager with significant training and experience in general management of similar lodging facilities to manage the Facility. The manager must successfully complete our training program. You are solely responsible for all employment decisions for your Facility, including recruitment, hiring, firing, scheduling, remuneration, personnel policies, training, benefits, safety, security, supervision, discipline and termination, regardless of whether you received advice from us on any of these subjects. The management company or individual manager does not have to own an equity interest in the membership or the Facility.

We reserve the right to require you to retain a third party manager or management company approved by us if you do not have significant experience managing a hotel, or are receiving a Development Incentive (see Item 10). If we require you to retain a third party manager or management company, we reserve the right to approve any management agreement between the owner and any approved management company.

You, or your manager/management company, must not divert any business of customer of the Facility to any competitor, or do any other act which may cause harm to the goodwill associated with the Marks and the Chain.

If you are an entity, your owners, general partners, or controlling shareholders or members must guarantee your obligations under the Membership Agreement. If you or the owners of the Facility are located in a community property or tenancy by the entirety – no severance state, your owners' spouses must also sign the guaranty. We may make exceptions to the obligation to provide a guaranty when business circumstances warrant.

#### **ITEM 16. RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You may not offer goods or services in your Facility that we do not authorize. You must operate the Facility in strict conformity with the standards we specify in the Membership Agreement, our Manual, or otherwise.

You must use the Facility premises solely for the operation of a Chain Facility. You may not share the Facility's swimming pool (if any), front desk, telephone system, parking lot and other guest service facilities with another lodging or housing facility. You may not develop or operate a timeshare or vacation ownership resort that is integrated into, or that shares amenities or services with, the Facility without our advance written consent. You may not use the Facility for gaming purposes without our consent or install any electronic or video games, vending machines or similar items that we have not approved. You may not permit any activity at the Facility which would negatively impact the goodwill of the System.

You may not provide any guest service or offer any product except as described in the Manual or otherwise in writing, and you must offer all System-wide products, services and programs we establish or that we determine to be in the best interest of the System. These may include guest-accessible high speed Internet service, guest recognition programs such as "Wyndham Rewards," complimentary services for senior citizens, children, [veterans](#) and frequent guests, travel agent and other programs.

You must offer guests a food and beverage option at the Facility or in reasonable proximity thereto that meets our standards and specifications.

We may add to or modify any of the programs, products or services we require you to offer, and you must comply with the changes we adopt. There are no contractual limitations on the frequency and cost of your obligation to adopt our changes.

You must participate in our Best Rate Guarantee program and may not make available room rates through any publicly available channel which are lower than the rates you offer through our brand channels.

We grant this membership only for the number of guest rooms specified in the Membership Agreement. You may not change the number of guest rooms or make other structural changes to the Facility without our advance written consent.

#### **ITEM 17. RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION THE FRANCHISE RELATIONSHIP**

**This table lists important provisions of the franchise and related agreements. You should**

read these provisions in the agreements attached to this Disclosure Document.

Provision	Section in Membership Agreement	Section in Signature Reservation Services Agreement	Section in SynXis Agreement	Section in OPERA Supplemental Services Agreement	Summary
<a href="#">a. Length of the franchise term</a>	<a href="#">5</a>	<a href="#">2</a>	<a href="#">14</a>	<a href="#">6</a>	<a href="#">20 years beginning on the first day of the month after</a>
<u>Provision</u>	<u>Section in Membership Agreement</u>	<u>Section in Signature Reservation Services Agreement</u>	<u>Section in SynXis Agreement</u>	<u>Section in OPERA Supplemental Services Agreement</u>	<u>Summary</u>
<del>a. Length of the franchise term</del>	<del>5</del>	<del>2</del>	<del>14</del>	<del>6</del>	<del>20 years beginning on the first day of the month after</del> the Opening Date of the Facility. Right to CRISP Services and HTCS Services is concurrent with membership under the Membership Agreement, subject to early termination for obsolescence or any other basis for early termination. We may extend the Term to 25 years to satisfy SBA lending standards if your lender requires. We will retain the right to terminate the membership after 20 years without cause and grant you the same right in that event.
b. Renewal or extension of the term	5	Not Applicable	Not applicable	Not Applicable	No renewal or extension rights.

TM	
MB	

c. Requirements for franchisee to renew or extend	Not Applicable	Not Applicable	Not applicable	Not Applicable	If we and you elect to renew the membership, you must (i) sign our then in effect Membership Agreement, which may have materially different terms and conditions than your original Agreement, and (ii) pay the then in effect Reaffiliation Fee, which is currently <a href="#">calculated under the same formula as the Affiliation Fee.</a>
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<b>Provision</b>	<b>Section in Membership Agreement</b>	<b>Section in Signature Reservation Services Agreement</b>	<b>Section in SynXis Agreement</b>	<b>Section in OPERA Supplemental Services Agreement</b>	<b>Summary</b>
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<a href="#">d. Termination by franchisee</a>	<a href="#">11.3</a>	<a href="#">Not Applicable</a>	<a href="#">14.4</a>	<a href="#">Not Applicable</a>	<del>calculated under the same formula as the Affiliation Fee. You may terminate if the Facility suffers a casualty or is condemned; certain notice periods must be observed. You may terminate SynXis Agreement upon 60 days'</del>
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<u>Provision</u>	<u>Section in Membership Agreement</u>	<u>Section in Signature Reservation Services Agreement</u>	<u>Section in SynXis Agreement</u>	<u>Section in OPERA Supplemental Services Agreement</u>	<u>Summary</u>
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<del>d. Termination by franchisee</del>	<del>11.3</del>	<del>Not Applicable</del>	<del>14.4</del>	<del>Not Applicable</del>	<del>You may terminate if the Facility suffers a casualty or is condemned; certain notice periods must be observed. You may terminate SynXis Agreement upon 60 days'</del> advance written notice. If the Facility is taken by the condemning authority before the end of the notice period, you must pay us your average daily Recurring Fees for the number of days remaining
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					in the notice period. If we grant you a Franchise or Membership Agreement with a 25- year term, you can terminate without cause after 20 years
e. Termination by franchisor without cause	Not Applicable	Not Applicable	14.5	Not Applicable	We have no right to terminate without cause.
f. Termination by franchisor with cause	11.2, 17.1, Schedule D	Not Applicable	14.1	7	We may terminate if you default, fail to meet improvement deadlines or provide the Certification, certain events occur, or a material term of the Membership Agreement is held invalid.
g. "Cause" defined – curable defaults	11.1, Schedule D	Not Applicable	14.2	7	10 days to cure monetary, reporting and confidentiality defaults; 30 days to cure other breaches of the Membership Agreement; Quality Assurance defaults must cure within 90 days if written plan approved and 30 day cure is not feasible. 30 days to cure default of SynXis Agreement or OPERA Supplemental Services Agreement.
h. "Cause" defined – non-curable defaults	<u>11.2, 17.1, Schedule D</u>	<u>Not Applicable</u>	<u>14.2</u>	<u>7</u>	<u>You discontinue operation, lose possession or the right to possession of the</u>
<b>Provision</b>	<b>Section in Membership Agreement</b>	<b>Section in Signature Reservation Services Agreement</b>	<b>Section in SynXis Agreement</b>	<b>Section in OPERA Supplemental Services Agreement</b>	<b>Summary</b>
					<del>defaults must cure within 90 days if written plan approved and 30 day cure is not feasible. 30 days to cure default of SynXis Agreement or OPERA Supplemental Services Agreement.</del>

<u>Provision</u>	<u>Section in Membership Agreement</u>	<u>Section in Signature Reservation Services Agreement</u>	<u>Section in SynXis Agreement</u>	<u>Section in OPERA Supplemental Services Agreement</u>	<u>Summary</u>
<del>h. “Cause” defined— non-curable defaults</del>	<del>11.2, 17.1, Schedule D</del>	<del>Not Applicable</del>	<del>14.2</del>	<del>7</del>	<del>You—discontinue operation, lose possession or the right to possession of the Facility, you maintain false books, fail to pay debts, misstate or omit a material fact, default twice in one year, contest the Marks, act or fail to act in a manner that could be injurious or prejudicial to the goodwill of the Marks, an unauthorized transfer occurs, guest health or safety is endangered, a receivership occurs.</del>
i. Franchisee’s obligations on termination/ non-renewal	12, 13, 15.4	Not Applicable	14.6	9.7, 9.13	Complete de-identification, return Manuals, pay fees and liquidated damages, repay any Development Incentive loan, honor reservations.
j. Assignment of contract by franchisor	10	<del>7</del>	16.14	9.11	No restriction on assignments and subcontracts by us, no new obligations to you after we notify you of the assignment.
k. “Transfer” by franchisee - defined	9, Appendix A	Not Applicable	5.1	Not Applicable	Sale or lease of Facility, change in majority equity ownership, new general partner, public tender offer.
<b>Provision</b>	<b>Section in Membership Agreement</b>	<b>Section in Signature Reservation Services Agreement</b>	<b>Section in SynXis Agreement</b>	<b>Section in OPERA Supplemental Services Agreement</b>	<b>Summary</b>

l. Franchisor approval of transfer by franchisee	9	Not Applicable	Not applicable	Not Applicable	We have right to approve all Transfers and qualify all transferees in our sole discretion.
m. Conditions for franchisor approval of transfer	9.3	Not Applicable	Not applicable	Not Applicable	Transferee must submit application, pay Reaffiliation and Application Fee, sign new form Membership Agreement, improve Facility to meet standards- <del>for conversion Facilities entering the Chain. You and your owners sign general releases unless restricted by law. You may be obligated to repay a Development Incentive loan or other benefit unless we consent to the transferee assuming the repayment obligation. See Item 10.</del>
<u>Provision</u>	<u>Section in Membership Agreement</u>	<u>Section in Signature Reservation Services Agreement</u>	<u>Section in SynXis Agreement</u>	<u>Section in OPERA Supplemental Services Agreement</u>	<u>Summary</u>
					<u>for conversion Facilities entering the Chain. You and your owners sign general releases unless restricted by law. You may be obligated to repay a Development Incentive loan or other benefit unless we consent to the transferee assuming the repayment obligation. See Item 10.</u>
ii. Franchisor's right of first refusal to acquire franchisee's business	Not Applicable	Not Applicable	Not applicable	Not Applicable	Not Applicable

o. Franchisor's option to purchase franchisee's business	Not Applicable	Not Applicable	Not applicable	Not Applicable	Not Applicable
p. Death or disability of franchisee	9.4, Appendix A	Not Applicable	Not applicable	Not Applicable	Your estate or guardian and their transferees are Permitted Transferees who submit an application and sign a new Membership Agreement, but pay no Reaffiliation or Application Fees and need not improve the Facility.
q. Non-competition covenants during the <a href="#">term of the franchise</a>	2, 3.11	Not Applicable	Not applicable	Not Applicable	See Item 12
r. <a href="#">Non-competition covenants after the franchise terminates or expires</a>	<a href="#">Not Applicable</a>	<a href="#">Not Applicable</a>	<a href="#">Not applicable</a>	<a href="#">Not Applicable</a>	<a href="#">Not Applicable</a>
<b>Provision</b>	<b>Section in Membership Agreement</b>	<b>Section in Signature Reservation Services Agreement</b>	<b>Section in SynXis Agreement</b>	<b>Section in OPERA Supplemental Services Agreement</b>	<b>Summary</b>
<del>term of the franchise</del>					
<del>f. _____ Non-competition covenants after the franchise terminates or expires</del>	<del>Not Applicable</del>	<del>Not Applicable</del>	<del>Not applicable</del>	<del>Not Applicable</del>	<del>Not Applicable</del>

s. Modification of the Agreement	4.5, 17.2, Schedule C	7 <del>7</del>	16.7	9.5	+ System and Manuals may be modified; No modifications unless in writing;, including fees listed in Schedule C, may change after 30 days' written notice to you. We may modify certain Schedules of the Opera Supplemental Services Agreement. We may modify the Manual and Wyndham Rewards Front Desk Guide.
t. Integration/ <del>merger</del> <a href="#">merger</a> clause	17.7.3	Not Applicable	16.2	9.9	Only the Membership Agreement and representations included in this Franchise Disclosure Document are binding (subject to state law). Any other promises may not be enforceable.
u. Dispute resolution by arbitration or mediation	17.6.2	3 <del>3</del>	16.15	9.12	Disputes arising under the Membership Agreement, the Opera Supplemental Services Agreement may be submitted to non-binding mediation.
v. Choice of forum	17.6.3	3.	16.8	9.6	Non-exclusive venue and jurisdiction in Morris County, NJ and U.S. District Court for New Jersey (subject to state law). You may not be required to litigate in New Jersey or apply New <a href="#">Jersey law. See the State Addenda in Exhibit A.</a>
<a href="#">w. Choice of law</a>	<a href="#">17.6.1</a>	<a href="#">3.</a>	<a href="#">16.8</a>	<a href="#">9.6</a>	<a href="#">New Jersey law applies, except New Jersey Franchise Practices Act doesn't apply to Facilities</a>

Provision	Section in Membership Agreement	Section in Signature Reservation Services Agreement	Section in SynXis Agreement	Section in OPERA Supplemental Services Agreement	Summary
					<a href="#">outside New Jersey (subject to state law). You may not be required to litigate in New Jersey or apply New Jersey law.</a> See the State Addenda in Exhibit A.
<del>w. Choice of law</del>	<del>17.6.1</del>	<del>3.</del>	<del>16.8</del>	<del>9.6</del>	<del>New Jersey law applies, except New Jersey Franchise Practices Act doesn't apply to Facilities outside New Jersey (subject to state law). You may not be required to litigate in New Jersey or apply New Jersey law. See the State Addenda in Exhibit A.</del>

### ITEM 18. PUBLIC FIGURES

We have no information to disclose in this Item 18.

### 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 [this](#) 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.

~~We do not make any representations about a franchisee's future~~

[Lodging facilities report performance for a time period on the basis of Average Daily Room Rate \("ADR"\) \(gross room revenue divided by the number of occupied guest rooms\), "Occupancy Rate" \(the percentage of available guest rooms actually occupied by guests\), and "RevPAR" or gross room revenue per available room \(Occupancy Rate multiplied by Average Daily Room Rate\). Our Chain also reports on central reservation system activity, such as the estimated gross room revenue generated from reservations booked through the central reservation system or via](#)

the Internet. In calculating gross room revenue in this Item 19, we take the price paid by the consumer for the room, after all discounts, credits and allowances, and subtract all applicable taxes.

The information contained in this Item 19 is a historic financial performance representation about our Chain’s existing Facilities in the United States (including the continental United States, Alaska, and Hawaii) and Canada. The Chain Facilities included in the samples in this Item 19 do not differ materially from those of prospective franchisees to whom we may offer franchises under this Disclosure Document. All the Chain Facilities whose information is represented in this Item 19 were operated by franchisees. The financial performance representations in this Item 19 do not include information from any Chain Facilities that were open on January 1, 2019 but left the System on or before December 31, 2019. For clarity, during 2019, 2 Chain Facilities left the System; neither of the 2 Chain Facilities that left the System during 2019, were open in the System less than 12 months.

**Some facilities have earned this amount. Your individual results may differ. There is no assurance that you’ll earn as much.**

**Average and Median ADR, Occupancy Rate, and RevPAR**

The ADR, Occupancy Rate, and RevPAR of a Facility new to the Chain are likely to differ from the results stated below. We do not represent that you will achieve these results at your Facility. No inference as to expenses, costs of services, or profits relating to existing or future Facilities should be drawn from the following information. If you rely on our figures, you must accept the risk of not doing as well.

The table below sets forth the average and median ADR, Occupancy Rate, and RevPAR for Mature Chain Facilities for the period from January 1, 2019 through December 31, 2019.<sup>1</sup>

“Mature Chain Facilities” means those Chain Facilities in the United States that opened before January 1, 2019, remained in operation throughout 2019, achieved a “Comparable Social Review Score<sup>2</sup>,” and, as of December 31, 2019, were not operated under a temporary agreement with a receiver, financial institution or other operator. The information is presented in the aggregate. The total number of Chain Facilities in the United States as of December 31, 2019 was 36. Of those 36 Chain Facilities, 19 were Mature Chain Facilities.

	# of Mature Chain Facilities	Average Daily Room Rate				Occupancy Rate				RevPAR			
		Avg.	# Meet or Exceeded Avg.	% Meet or Exceeded Avg.	Median	Avg.	# Meet or Exceeded Avg.	% Meet or Exceeded Avg.	Median	Avg.	# Meet or Exceeded Avg.	% Meet or Exceeded Avg.	Median
Total	19	\$129.51	6	31.6%	\$104.60	51.5%	9	47.4%	50.0%	\$66.75	9	47.4%	\$58.13

<sup>1</sup> If a Chain Facility changed ownership during 2019, then all ADR, Occupancy Rate and RevPAR information for the Facility in this Item 19 is reflected only from the date of the subsequent owner’s acquisition of the Facility through December 31, 2019.<sup>1</sup>

<sup>2</sup> A “Comparable Social Review Score” means that, for the 12-month period ending December 31, 2019, a Chain Facility (i) received at least ten total reviews via Medallia, which aggregates reviews from Tripadvisor, major online travel agencies, and other online social review sites, and (ii) achieved an average score from such reviews of 3.8 or above.

The information in the table above was obtained from the monthly revenue reports of Chain Facilities submitted by franchisees and represents the most reliable information available to us. For any months in which Chain Facilities did not submit revenue reports, Occupancy Rate and ADR were computed based upon actual data sent to us each night by the Facility's property management system. ADR, Occupancy Rate, and RevPAR vary from Chain Facility to Chain Facility and depend on many factors, including competition, general economic conditions, the length and intensity of the hotel trading seasons, management decisions to raise or lower rates to induce changes in occupancy or revenue, geographic location, climate, weather conditions, age and condition of the hotel and cost factors. You set your own room rates.

### **Central Reservation System, Global Sales Organization and Wyndham Rewards Activity**

The following information provides chain-wide totals and averages for all Chain Facilities in the United States and Canada as of December 31, 2019<sup>3</sup>

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The contribution that the Central Reservation System will make to a new facility's revenue, rates or occupancy is likely to vary from the averages and medians presented below. If you rely on our figures, you must accept the risk of not doing as well.

The "Central Reservation System" means reservations processed via our and the Lodging Affiliates' call centers ("Call Centers"), our and the Lodging Affiliates' brand websites ("Brand Websites"), other electronic channels such as the global distribution systems ("GDS"), the Wyndham Rewards loyalty program, third party websites, and certain reservations by the Global Sales Organization.

The Central Reservation System booked 638,956 Counted Room Nights for Chain Facilities in the United States and Canada.<sup>4</sup>

"Counted Room Nights" include all room nights for a stay with an arrival between January 1, 2019 and December 31, 2019. For greater clarity, Counted Room Nights may include room nights after December 31, 2019, provided the first night of occupancy for such stays occurred on or before December 31, 2019. These Counted Room Nights yielded estimated gross room revenue, net of cancellations, of \$72,230,783 with an Average Daily Room Rate of \$113.05 and a Median Daily Room Rate of \$106.95. Of the 46 Chain Facilities, 17 or 36.96% had an Average Daily Room Rate that met or exceeded the foregoing Average Daily Room Rate.

Also included in the Central Reservation System figures presented in the paragraph above are bookings by the Global Sales Organization ("GSO") and members of the Wyndham Rewards loyalty program.

Reservations by the GSO were made through the Call Centers, the Brand Websites, and other electronic channels.<sup>5</sup>

<sup>3</sup> There was 1 Chain Facility that was previously operated pursuant to an agreement with one of the Lodging Affiliates but which converted to our Chain during 2019. The totals in this section include contribution information for this Facility for all of 2019.[]

<sup>4</sup> Revenue information from Canadian Facilities was converted into U.S. dollars based on the average OANDA exchange rate each month.[]

<sup>5</sup> The information in this paragraph includes reservations attributed primarily to the GSO that were made directly with Chain[] Facilities. Those reservations are not, however, included in any of the other revenue contribution information described in this Section.

The GSO booked 99,069 Counted Room Nights for Chain Facilities in the United States and Canada. These Counted Room Nights yielded estimated gross room revenue, net of cancellations, of \$11,433,511 with an Average Daily Room Rate of \$115.41 and a Median Daily Room Rate of \$118.99. Of the 46 Chain Facilities, 25 or 54.35% had an Average Daily Room Rate that met or exceeded the foregoing Average Daily Room Rate.

Reservations by Wyndham Rewards members were made through the Call Centers, the Brand Websites, other electronic channels and directly with Chain Facilities. Members of the Wyndham Rewards loyalty program booked 341,274 Counted Room Nights for arrivals at Chain Facilities in the United States and Canada. These Counted Room Nights yielded estimated gross room revenue, net of cancellations, of \$35,902,594 with an Average Daily Room Rate of

\$105.20 and a Median Daily Room Rate of \$103.62. Of the 46 Chain Facilities, 20 or 43.48% had an Average Daily Room Rate that met or exceeded the foregoing Average Daily Room Rate.

The following table sets forth the revenue contribution generated by the Central Reservation System (including by Wyndham Rewards members) for Chain Facilities in the United States and Canada from Counted Room Nights, expressed as a percentage of all Chain-wide gross room revenue. It also sets forth the revenue contribution generated by Wyndham Rewards members from Counted Room Nights, expressed as a percentage of all Chain-wide gross room revenue. The information is reported to us by all Chain Facilities in the System.

<u>Source</u>	<u>Revenue Contribution</u>	<u>Source</u>	<u>Revenue Contribution</u>
<u>Total Central Reservation System</u>	<u>56.47%</u>	<u>Wyndham Rewards (included in Total)</u>	<u>28.07%</u>

We have written substantiation for the historical performance representations contained in this Item 19, which we will make available to you upon reasonable request. We will not disclose the performance data of a specific Chain Facility and its identity without the franchisee's prior written consent.

Actual results may vary from facility to facility, and we cannot estimate the results of any particular Facility or franchise.

Other than the preceding financial performance representations, we do not make any representations about a franchisee's future performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing or former outlet, however, we 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~~our management by contacting Paul F. Cash, Executive Vice President and General Counsel, TMH Worldwide, LLC., 22 Sylvan Way, Parsippany, NJ 07054, (973) 753-6333; the Federal Trade Commission; and the appropriate state regulatory agencies.

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ITEM 20. OUTLETS AND FRANCHISEE INFORMATION<sup>1</sup>

Table No. 1  
System wide  
**FacilityOutlet**  
Summary  
For years ~~2016~~2017 to ~~2018~~2019 (U.S. Only)

Column 1 <b>FacilityOutlet</b> Type	Column 2 Year	Column 3 <b>FacilitiesOutlet</b> s at the Start of the Year	Column 4 <b>FacilitiesO</b> <b>utlets</b> at the End of the Year	Column 5 Net Change
Franchised	<del>2016</del> 2017	0	<del>0</del> 12	<del>0</del> 12
	<del>2017</del> 2018	<del>0</del> 12	<del>4</del> 27	<del>4</del> 15
	<del>2018</del> 2019	<del>4</del> 27	<del>2</del> 36	<del>4</del> 59
Company-Owned	<del>2016</del> 2017	0	0	0
	<del>2017</del> 2018	0	0	0
	<del>2018</del> 2019	0	0	0
<b>Total</b> <b>FacilitiesOutlets</b>	<del>2016</del> 2017	0	<del>0</del> 12	<del>0</del> 12
	<del>2017</del> 2018	<del>0</del> 12	<del>4</del> 27	<del>4</del> 15
	<del>2018</del> 2019	<del>4</del> 27	<del>2</del> 36	<del>4</del> 59

Table No. 2<sup>2</sup>

Transfers of **FacilitiesOutlets** from Franchisees to New Owners (Other than the Franchisor) For Years ~~2016~~2017 to ~~2018~~2019 (U.S. Only)

Column 1 State <sup>3</sup>	Column 2 Year	Column 3 Number of Transfers
Utah	<del>2016</del> 2017	0
	<del>2017</del>	0
	2018	1
	<del>2016</del> 2019	0

<sup>1</sup> For purposes of this Item 20, U.S. includes the continental United States, Alaska, Hawaii, and Puerto Rico.

<sup>2</sup> Excluded from this table were any (i) assignments by initial franchisees to affiliated entities using our Assignment and Assumption Agreement form, and (ii) temporary operating agreements with financial institutions and agreements with receivers.

<sup>3</sup> If a state is not listed in the above table, there were not any Trademark facilities transferred in those states either as of the start or end of the years listed in the table.

<b>Total</b> <b>Totals</b>	<b>2017</b>	<b>0</b>
	<b>2018</b>	<b>1</b>
	<b>2019</b>	<b>0</b>

**Table No. 3<sup>4</sup>**  
**Status of Franchised**  
**Facilities/Outlets For Years**  
**2016/2017 to 2018/2019 (U.S. Only)**

Column 1 State <sup>5</sup>	Column 2 Year	Column 3 Facilities/Outlets at Start of Year	Column 4 Facilities/Outlets Opened	Column 5 Terminations	Column 6 Non-Renewals	Column 7 Acquired by Franchisor	Column 8 Ceased Operations - Other Reasons	Column 9 Facilities/Outlets at End of the Year
Alaska	2016/2017	0	0	0	0	0	0	0
	2017/2018	0	0	0	0	0	0	0
	2018/2019	0	0	0	0	0	0	1
Arizona	2016/2017	0	0	0	0	0	0	0
	2017/2018	0	0	0	0	0	0	0
	2018/2019	0	0	0	0	0	0	1
Arkansas	2016/2017	0	0	0	0	0	0	0
	2017/2018	0	0	0	0	0	0	0
	2018/2019	0	0	0	0	0	0	0
California	2016/2017	0	0	0	0	0	0	0
	2017/2018	0	0	0	0	0	0	0
	2018/2019	0	0	0	0	0	0	0
Florida	2016/2017	0	0	0	0	0	0	0
	2017/2018	0	0	0	0	0	0	0
	2018/2019	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0
Hawaii/Georgia	2017	0	0	0	0	0	0	0
	2018	0	0	0	0	0	0	0
	2019	0	1	0	0	0	0	1
Illinois	2017	0	0	0	0	0	0	0
	2018	0	0	0	0	0	0	0
	2019	0	1	0	0	0	0	1
Kentucky	2016/2017	0	0	0	0	0	0	0

<sup>4</sup> The numbers in Columns 5 and 8 do not include any franchises which were terminated for any reason before the Outlet opened as part of our System.

<sup>5</sup> If a state is not listed in the above table, there were not any Trademark facilities located in those states either as of the start or end of the years listed in the table and no Trademark facilities were opened in those states during these years.

	<del>2017</del> 2018	0	<del>0</del> 1	0	0	0	0	<del>0</del> 1
	<del>2018</del> 2019	<del>0</del> 1	<del>4</del> 0	0	0	0	0	1
Louisiana	<del>2016</del> 2017	0	<del>0</del> 1	0	0	0	0	<del>0</del> 1
	<del>2017</del> 2018	<del>0</del> 1	<del>4</del> 0	0	0	0	0	1
	<del>2018</del> 2019	1	0	0	0	0	0	1
Michigan	<del>2016</del> 2017	0	0	0	0	0	0	0
	<del>2017</del> 2018	0	<del>0</del> 1	0	0	0	0	<del>0</del> 1
	<del>2018</del> 2019	<del>0</del> 1	<del>4</del> 0	0	0	0	0	1
Missouri	<del>2016</del> 2017	0	0	0	0	0	0	0
	<del>2017</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>
	2018	0	1	0	0	0	0	1
<b>Nebraska</b> <b>Column 1</b> <b>State<sup>5</sup></b>	<b><del>2016</del>Column 2</b> <b>Year</b>	<b><del>0</del>Column 3</b> <b>Outlets at</b> <b>Start of</b> <b>Year</b>	<b><del>0</del>Column 4</b> <b>Outlets</b> <b>Opened</b>	<b><del>0</del>Column 5</b> <b>Terminat</b> <b>-ions</b>	<b><del>0</del>Column 6</b> <b>Non-</b> <b>Renewals</b>	<b><del>0</del>Column 7</b> <b>Reacquir</b> <b>ed by</b> <b>Franchiso</b> <b>r</b>	<b><del>0</del>Column 8</b> <b>Ceased</b> <b>Operations</b> <b>-Other</b> <b>Reasons</b>	<b><del>0</del>Column 9</b> <b>Outlets</b> <b>at End</b> <b>of the</b> <b>Year</b>
	<del>2017</del> 2019	<del>0</del> 1	1	0	0	0	<del>0</del> 1	1
New- York	<del>2018</del> 2017	<del>4</del> 0	<del>0</del> 1	0	0	0	0	1
	<del>2018</del>	<del>1</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>1</del>
	<del>2019</del>	<del>1</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>1</del>
New York	<del>2016</del> 2017	0	<del>0</del> 2	0	0	0	0	<del>0</del> 2
	<del>2017</del>	<del>0</del>	<del>2</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>2</del>
	2018	2	1	0	0	0	0	3
	<del>2019</del>	<del>3</del>	<del>1</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>4</del>
North Carolina	<del>2016</del> 2017	0	0	0	0	0	0	0
	<del>2017</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>
	2018	0	1	0	0	0	0	1
	<del>2019</del>	<del>1</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>1</del>
North Dakota	<del>2016</del> 2017	0	<del>0</del> 1	0	0	0	0	<del>0</del> 1
	<del>2017</del>	<del>0</del>	<del>4</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>4</del>
	2018	1	0	0	0	0	0	1
	<del>2019</del>	<del>1</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>1</del>	<del>0</del>
Ohio	<del>2016</del> 2017	0	<del>0</del> 2	0	0	0	0	<del>0</del> 2
	<del>2017</del>	<del>0</del>	<del>2</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>2</del>
	2018	2	0	0	0	0	0	2
	<del>2019</del>	<del>2</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>2</del>
Texas	<del>2016</del> 2017	0	0	0	0	0	0	0
	<del>2017</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>
	2018	0	1	0	0	0	0	1
	<del>2019</del>	<del>1</del>	<del>1</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>2</del>
Utah	<del>2016</del> 2017	0	<del>0</del> 1	0	0	0	0	<del>0</del> 1
	<del>2017</del>	<del>0</del>	<del>4</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>4</del>
	2018	1	1	0	0	0	0	2
	<del>2019</del>	<del>2</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>2</del>
Virginia	<del>2016</del> 2017	0	0	0	0	0	0	0
	<del>2017</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>
	2018	0	2	0	0	0	0	2

	<u>2019</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>
<b>Total</b>	<del>2016</del> <u>2017</u>	0	0	0	0	0	0	0
West Virginia	<u>2018</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2019</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
Wisconsin	<u>2017</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2018</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2019</u>	<u>0</u>	<u>3</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>3</u>
Wyoming	<u>2017</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2018</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>2019</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>Totals</b>	<b>2017</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>12</b>
	<b>2018</b>	<b>12</b>	<b>16</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>27</b>
	<b>2019</b>	<b>27</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>36</b>

Table No. 4 For Years ~~2016~~2017 to ~~2018~~2019 (U.S. Only)

Column 1 State	Column 2 Year	Column 3 Hotels at Start of Year	Column 4 Hotels Opened	Column 5 Hotels <del>Reacquired</del> <u>Reacquire</u> <u>d</u> from Franchise	Column 6 Hotels Closed	Column 7 Hotels Sold to Franchisee	Column 8 Ceased Operations - Other Reasons	Column 9 Hotels at End of the Year
All States	<del>2016</del> <u>2017</u>	0	0	0	0	0	0	0
	<del>2017</del> <u>2018</u>	0	0	0	0	0	0	0
	<del>2018</del> <u>2019</u>	0	0	0	0	0	0	0
	<del>2016</del> <u>2017</u>	0	0	0	0	0	0	0
Total	<del>2017</del> <u>2018</u>	0	0	0	0	0	0	0
	<del>2018</del> <u>2019</u>	0	0	0	0	0	0	0
	<del>2016</del> <u>2017</u>	0	0	0	0	0	0	0
	<del>2017</del> <u>2018</u>	0	0	0	0	0	0	0

Table No. 5 Projected Openings as of December 31, ~~2018~~2019 (U.S. Only)

Column 1 State <sup>6</sup>	Column 2 Agreements Signed But <del>Facility</del> <u>Outlet</u> Not Opened	Column 3 Projected New Franchised <del>Facilities</del> <u>Outlets</u> in the Next Fiscal Year	Column 4 Projected New Company-Owned <del>Facilities</del> <u>Outlets</u> in the Next Fiscal Year
Arizona	0	<u>2</u> <del>1</del>	0
California	<u>4</u> <del>2</del>	2	0
Colorado	0	1	0

<sup>6</sup> If a state is not listed in the above table we do not project entering into a Franchise/Membership Agreement for a Trademark facility to be located in those states during our next fiscal year.

Florida	<del>40</del>	<del>31</del>	0
Georgia	<del>20</del>	<del>21</del>	0
<u>Illinois</u>	<u>1</u>	<u>1</u>	<u>0</u>
Kentucky	0	1	0
<u>Maryland</u>	<u>1</u>	<u>1</u>	<u>0</u>
Massachusetts	0	1	0
Michigan	0	1	0
Minnesota	1	1	0
<b>Nebraska</b>	<b>0</b>	<b>0</b>	<b>0</b>
Nevada	0	1	0
New Jersey	0	1	0
New York	<del>21</del>	<del>41</del>	0
North Carolina	1	<del>01</del>	0
<u>Oklahoma</u>	<u>1</u>	<u>1</u>	<u>0</u>
Pennsylvania	<del>21</del>	<del>21</del>	0
South Carolina	0	1	0
Texas	0	1	0
Vermont	<del>40</del>	1	0
West Virginia	1	1	0
Wisconsin	1	1	0
District of Columbia	0	1	0
<b>Total/Totals</b>	<b><del>431</del></b>	<b><del>2824</del></b>	<b>0</b>

The name, address and telephone number of all members and their Facilities in the United States as of December 31, ~~2018~~2019 are shown in Exhibit E-1. There ~~was 1 member~~were 2 members that suffered termination or otherwise voluntarily or involuntarily ceased to do business under a Membership Agreement from January 1, ~~2018~~2019 until December 31, ~~2018~~2019 included in Exhibit E-2. There were no members who did not communicate with us during the ten week period preceding the date of this Disclosure Document. If you buy this membership/franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

In some instances, current and former members sign provisions restricting their ability to speak openly about their experience with the Trademark Chain. You may wish to speak with current and former members, but be aware that not all such members will be able to communicate with you.

As a standard practice, when we enter into settlement agreements with a member or former member, we require them to agree to maintain as confidential all information that the members or former member has about us.

Currently there is no trademark-specific membership organizations associated with Trademark Collection.

The Trademark Collection's contact information is:

## ITEM 21. FINANCIAL STATEMENTS

Exhibit D includes the audited financial statements of Wyndham Hotels & Resorts, Inc. and its subsidiaries (the “Company”). Prior to its separation from Wyndham Worldwide Corporation (now known as Wyndham Destinations, Inc.), the Company consisted of the entities holding substantially all of the assets and liabilities of the Wyndham Worldwide Hotel Group business. These financial statements contain the consolidated ~~and combined~~ balance sheets of the Company as of December 31, 2019 and 2018 ~~and 2017~~, and the related consolidated and combined statements of income, comprehensive income, equity, and cash flows, for each of the three years in the period ended December 31, 2018~~2019~~. ~~Also included in Exhibit D are the unaudited condensed consolidated balance sheet as of September 30, 2019 and the related unaudited condensed consolidated and combined statements of income, comprehensive income, cash flows, and equity for the three-month and nine-month periods ended September 30, 2019 and 2018.~~ Appended to the financial statements as Attachment 1 is the unaudited Statement of Current Events as of the date of this Disclosure Document.

WHR guarantees our performance. See Exhibit D for a copy of the guaranty. We file state specific guarantees of performance with the appropriate agencies in the states where our memberships are registered to be offered and sold.

## ITEM 22. CONTRACTS

Copies of all proposed agreements regarding the membership offering are included in the following exhibits to this Disclosure Document:

C-1 Membership Agreement including Personal Guaranty, ADA Certification Forms for New Construction Facilities (Pre-Construction and Post Construction), Affiliation Fee Note, Development Advance Note, Addendum for Electronic Funds Transfers, Assignment and Assumption Agreement, State Addenda and Membership Application

C-2(a) SynXis Subscription Agreement

C-2(b) Elavon Hosted Services Agreement for Hosted Gateway Services

C-4 Supplemental Services Agreement – SaaS Subscription Model OPERA

SaaS C-5 Three Party Agreement / Lender Notification Agreement; Request

Forms

C-6 Termination and Release Agreement

C-7 Signature Reservation Services

Agreement C-8 Hotel Revenue Management

Agreement

[C-9 Hotel Connectivity Solutions Agreement](#)

### **ITEM 23. RECEIPT**

You will find the state effective dates and copies of a detachable receipt in Exhibit G at the very end of this Disclosure Document.

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<sup>1</sup> Unless otherwise indicated, all fees are (i) imposed and collected by us, (ii) payable to us,

non-refundable, and (iv) uniformly imposed. We require you to pay all Recurring Fees and other fees and charges online via our self-service, electronic invoice presentment and payment tool (~~“WynPay”~~), accessible through MyPortal, or through such other technologies or other means as we may establish. In the online ~~WynPay~~ environment, payments can be made either by the electronic check payment channel or the credit card payment channel. We reserve the right to impose limits on the use of the credit card payment channel, and to charge additional processing fees for such use. If you submit payment for any fee using a paper check, you will incur a \$160 processing fee per each occurrence. Standard Recurring Fees include the Membership and Marketing Fee. We may negotiate increases or decreases for a particular transaction at the time the Membership Agreement is signed for any fee listed above when business circumstances warrant. You begin paying Recurring Fees when you open the Facility. If you purchase an existing Facility, you begin paying Recurring Fees when you acquire or take possession of the Facility, whichever comes first.

<sup>2</sup> “GRR” or “Gross Room Revenues” is defined as gross revenues attributable to or payable for rentals of guest (sleeping) rooms at the Facility, including all credit transactions, whether or not collected, guaranteed no-show revenue, net of chargebacks from credit card issuers, any proceeds from any business interruption or similar insurance applicable to the loss of revenues due to the non-availability of guest rooms and any miscellaneous fees charged to all guests regardless of the accounting treatment of these fees. Excluded from GRR are separate charges to guests for Food and Beverage (including room service); actual telephone charges for calls made from a guest room; key forfeitures and entertainment (including Internet fees and commissions); vending machine receipts; and federal, state and local sales, occupancy and use taxes.

~~<sup>3</sup> We have the right to require all Chain Facilities to participate in the Wyndham Rewards® guest loyalty program which is operated by our affiliate Wyndham Rewards, Inc. Under the Wyndham Rewards, program, members can earn Wyndham Rewards points or Travel Partner Currency based on amounts spent at participating Chain Facilities as well as at participating Lodging Affiliate hotels or select affiliated properties, through purchases from non-affiliated merchants and service providers, or by making purchases with a Wyndham Rewards co-branded credit card. Members can redeem their Wyndham Rewards points for free or discounted night stays at Chain Facilities and Lodging Affiliate hotels, or select affiliated properties, for airline tickets, shopping and dining gift cards, merchandise and other rewards. Membership in Wyndham Rewards is free. We will offer callers to our toll-free reservation center and visitors to our consumer website the option to join Wyndham Rewards. You must also offer to enroll guests at your front desk, and are subject to an enrollment quota which Wyndham Rewards, Inc. may change, from time to time, for Chain Facilities. All members will be assessed Loyalty Program Fees, as applicable, on Wyndham Rewards member stays at their Facility. Stays for which members earn Wyndham Rewards~~

~~points are defined in the Front Desk Guide, as may be amended. Certain member stays may not qualify for Wyndham Rewards point earnings. We will proactively match and award points to members even if they fail to present their membership number before check-out. We will reimburse you for free or certain discounted night stays at your Facility under a formula which is listed in the Front Desk Guide, which may be amended. Wyndham Rewards, Inc. has reserved the right to modify, alter, delete or add new terms or conditions, procedures, point values, redemption levels or rewards for the Wyndham Rewards program upon thirty (30) days' notice. Wyndham Rewards, Inc. may terminate the program at any time upon six months' prior notice.~~

<sup>43</sup> Depending on the circumstances, we may charge you a No-Show Fee of between 50% and 100% of the cost of the training that you or your personnel miss.

~~<sup>5</sup> If a condemnation taking occurs less than one year after notice to us, you pay the average daily Membership and Marketing Fees payable over the one year period preceding the date of your condemnation notice to us multiplied by the number of days remaining in the one year notice period. We may reduce the required notice period when business circumstances warrant.~~

<sup>4</sup> We have the right to require all Chain Facilities to participate in the Wyndham Rewards® guest loyalty program which is operated by our affiliate Wyndham Rewards, Inc. Under the Wyndham Rewards, program, members can earn Wyndham Rewards points or Travel Partner Currency based on amounts spent at participating Chain Facilities as well as at participating Lodging Affiliate hotels or select affiliated properties, through purchases from non-affiliated merchants and service providers, or by making purchases with a Wyndham Rewards co-branded credit card. Members can redeem their Wyndham Rewards points for free or discounted night stays at Chain Facilities and Lodging Affiliate hotels, or select affiliated properties, for airline tickets, shopping and dining gift cards, merchandise and other rewards. Membership in Wyndham Rewards is free. We will offer callers to our toll-free reservation center and visitors to our consumer website the option to join Wyndham Rewards. You must also offer to enroll guests at your front desk, and are subject to an enrollment quota which Wyndham Rewards, Inc. may change, from time to time, for Chain Facilities. All members will be assessed Loyalty Program Fees, as applicable, on Wyndham Rewards member stays at their Facility. Stays for which members earn Wyndham Rewards points are defined in the Front Desk Guide, as may be amended.

<sup>5</sup> If a condemnation taking occurs less than one year after notice to us, you pay the average daily Membership and Marketing Fees payable over the one year period preceding the date of your condemnation notice to us multiplied by the number of days remaining in the one year notice period. We may reduce the required notice period when business circumstances warrant.

## **ITEM 7. ESTIMATED INITIAL INVESTMENT**

<sup>1</sup> See Item 5 for amount or formula of each fee. We may defer payment of the Affiliation Fee. See Item 10. All fees are non-refundable, but we will refund your Application Fee if your Application is not accepted due to proximity of the proposed site to another Chain Facility.

<sup>2</sup> The low end of the range assumes that (i) you already own the Facility and have no acquisition costs, and (ii) the Facility's exterior, public areas, guest rooms and plumbing, heating, ventilation, air conditioning and other systems are in good condition and meet System Standards. The high end of the range assumes that (i) you already own the Facility and have no acquisition costs, (ii) the Facility requires extensive structural renovations to meet Systems standards, and (iii) the exterior, public areas and guest rooms are in poor condition and require refinishing (e.g., exterior walkways and swimming pool surface, landscaping, carpeting and floor tile, wallcoverings, ceiling tile).

~~<sup>2</sup> The low end of the range assumes that (i) you already own the Facility and have no acquisition costs, and (ii) the Facility's exterior, public areas, guest rooms and plumbing, heating, ventilation, air conditioning and other systems are in good condition and meet System Standards. The high end of the range assumes that (i) you already own the Facility and have no acquisition costs, (ii) the Facility requires extensive structural renovations to meet Systems standards, and (iii) the exterior, public areas and guest rooms are in poor condition and require refinishing (e.g., exterior walkways and swimming pool surface, landscaping, carpeting and floor tile, wallcoverings, ceiling tile).~~

<sup>3</sup> Includes furniture, fixtures and equipment ("FF&E") for all areas of the Facility including guest rooms and public area. These items are typically driven by the decorative furnishings package. The low end of the range assumes that the FF&E are in excellent condition and meet System Standards. The high end of the range assumes that most of the FF&E are in poor condition and need to be replaced. The estimate presumes that you will install our approved interior design package in all guest rooms and public areas. Items included in the interior design package for the guest room and public areas may include flooring, artwork and mirrors, casegoods, bedding and bed frames, lighting, seating, softgoods, upholstered goods, wallcoverings and window treatments. Tax and Freight are estimated at approximately 20% (must be confirmed upon purchasing). Installation costs are not factored into these numbers and must be confirmed upon purchasing.

~~<sup>4</sup> Includes the cost of materials and installation for one pylon sign, one wall mounted sign, channel letters and one directional sign, if needed. The low end of the range presumes that you only need to purchase a wall mounted plaque for behind your front desk as your existing signage is in good condition. The upper end of the range presumes that you will need to install a new column. Your actual cost will depend on many variables including sign size, materials and height, distance signs must be shipped, labor costs and local ordinances.<sup>4</sup> This amount includes your architectural (and~~

structural, mechanical, electrical and plumbing engineering) fees to create plans and specifications to meet site feasibility report requirements and local code and zoning requirements. This amount does not include site evaluation fees, geotechnical report fees, or civil engineering fees.

- <sup>5</sup> Operating supplies and equipment (“OS&E”) includes: mattresses/box springs, bed frames, televisions, terry, linens, pillows, logoed items, housekeeping supplies, bathroom amenities/supplies, guestroom amenities/supplies (telephone, clock, coffee maker, iron, hangers, etc.), safes, cribs, luggage racks, luggage carts, interior signage, breakfast display equipment, public restroom supplies, floor mats, name badges and key cards & folders, and miscellaneous items (razors, first aid kit, deodorant, toothpaste, etc.). The low end of the range presumes that you ~~have sufficient inventory of the foregoing will need to purchase certain Mark-bearing items~~ required items to open by System Standards. The high end of the range presumes that your inventory of operating supplies needs to be replaced in its entirety to open in compliance with System Standards and that you have chosen to purchase optional/suggested items not required by System Standards, but which you might choose to purchase. Optional / suggested items include: additional linens and collateral, rollaway beds, guest laundry, flags, employee facilities, etc. ~~Prices do not include freight or tax.~~ Tax and Freight are estimated at 15%. Costs should be confirmed upon purchasing.
- <sup>6</sup> This is the fee for the required photo package for your Facility.
- <sup>7</sup> You must maintain commercial general liability insurance with combined single limits per occurrence of \$1 million in primary coverage and \$3 million in excess liability umbrella coverage (\$4 million total), plus other required coverage. Insurance requirements are subject to change on a Chain-wide basis. This does not include your costs for property and casualty insurance, workers’ compensation, employer’s liability, disability and other insurance benefits for your employees.
- <sup>8</sup> The low end of the range presumes only your general manager will attend our Hospitality Management Program training. The high end of the range presumes that you or one of your representatives will also attend ~~training. The tuition cost for you or another staff member to attend the~~ Hospitality Management Program ~~in addition to your general manager is \$1,400~~ training at the additional attendee tuition. The high end also presumes your facility qualifies for five days, and you choose to participate in optional Opening Training. It also presumes your owner chooses to attend optional New Owner Orientation.
- <sup>9</sup> The low end of the range presumes that only your general manager will attend our Hospitality Management Program and that he/she will drive to the program. The low end estimate includes minimal travel costs, mid-level lodging and meal expenses. The high end of the range presumes that you or one of your representatives will also attend ~~the~~ Hospitality Management Program training and will incur significant airfare, car

rental, lodging and meal expenses. ~~Tuition for your general manager and, if applicable, additional representative is~~ It also includes five days of facilitators cost for optional Opening Training and owner's travel costs associated with attending optional New Owner Orientation. Tuition costs are not included in Training Expenses.

<sup>10</sup> The amounts presented includes costs associated with the equipment on which to operate the PMS, guest room and public area high speed Internet access, PBX/telephone system (including ~~consoles and guest room and administrative telephones~~) and television system. ~~The low end of the~~

~~<sup>11</sup> All Chain Facilities must procure an approved PMS so they can interface with the Central Reservation System. The amounts presented include costs associated with the PMS Set-Up and Installation. The low end of the range assumes you select the base SynXis PMS for the Facility. The high end of the range assumes that you select the Premium OPERA SaaS Subscription Model system for the Facility. See Item 11 for information about PMS.~~

<sup>12</sup> Includes attorney's and accountant's fees, business license fees, surveys, bank fees, the cost of back office accounting systems, and similar business startup expenses.

<sup>13</sup> This amount is calculated as 5% of renovation costs.

<sup>14</sup> This amount includes your architectural (and structural, mechanical, electrical and plumbing engineering) fees to create plans and specifications to meet site feasibility report requirements and local code and zoning requirements. This amount does not include site evaluation fees, geotechnical report fees, or civil engineering fees.

<sup>15</sup> This item includes costs for permit fees, utility deposits and related fees. This item does not include impact fees which may be assessed by local authorities. You should check with the applicable local authorities to determine if impact fees are assessed and, if so, how they are calculated and the amount to be charged to your Facility.

<sup>16</sup> This amount is an estimate and includes the Recurring Fees you will pay us after opening. It does not include debt service payments or rent. Many factors affect initial period Gross Room Revenues and operating costs, including seasonality, pre-opening advertising and marketing, location, your management ability, staff performance and local market factors such as competition for customers and employees. Our estimate is based on our experience and the experience of our Lodging Affiliates and their franchisees or members in operating similarly situated brands over the last two years. These expenses include labor costs. We do not guarantee that you will not have additional expenses starting the business.

~~<sup>15</sup> This item includes costs for permit fees, utility deposits and related fees. This item does not include impact fees which may be assessed by local authorities. You should check with the applicable local authorities to determine if impact fees are assessed and, if so,~~

~~how they are calculated and the amount to be charged to your Facility.~~

~~<sup>16</sup>This amount is an estimate and includes the Recurring Fees you will pay us after opening. It does not include debt service payments or rent. Many factors affect initial period Gross Room Revenues and operating costs, including seasonality, pre-opening advertising and marketing, location, your management ability, staff performance and local market factors such as competition for customers and employees. Our estimate is based on our experience and the experience of our Lodging Affiliates and their franchisees or members in operating similarly situated brands over the last two years. These expenses include labor costs. We do not guarantee that you will not have additional expenses starting the business.~~

**<sup>17</sup>None of the fees and costs payable to us in the above tables is refundable. Fees and costs payable to suppliers and other third parties above generally are not refundable unless you negotiate that directly with them. See Item 10 for a discussion of financing which might be available for portions of your initial investment in a Chain Facility.**

<sup>11</sup>This is the fee for the required photo package for your Facility.

<sup>1</sup> See Item 5 for amount or formula of each fee. We may defer payment of the Affiliation Fee. See Item 10. All fees are non-refundable, but we will refund your Application Fee if your application is not accepted due to proximity of the proposed site to another Chain Facility.

<sup>2</sup> We do not require a market or feasibility study. We strongly suggest that you obtain one from a reputable consultant to confirm your decision to construct a Chain Facility and to provide potential financing sources with independent information on prospects for the Facility. We reserve the right to obtain, or to require you to obtain at your expense, as a condition for receiving our approval of the site, a positive market feasibility study prepared by a nationally prominent independent accounting or consulting firm we approve.

<sup>3</sup> The outcome of the Phase I Survey may dictate additional environmental studies be done to satisfy any concerns over potential hazards at the location you select.

~~<sup>4</sup>This amount includes your architectural (and structural, mechanical, electrical and~~

<sup>5</sup> Land costs vary materially. A 100 room Facility needs at least 2.5 acres for the building and adequate parking areas. Within urban areas the acreage requirements are less, provided that adequate parking is available for guests. Your land cost depends on land prices in your area and the site you select. Frontage on major thoroughfares and proximity to interstate highways or transportation centers used by persons needing overnight accommodations is desirable.

<sup>6</sup> This item includes costs for permit fees, utility deposits and related fees. This item does not include impact fees which may be assessed by local authorities. You should check with the applicable local authorities to determine if impact fees are assessed and, if so, how they are calculated and the amount to be charged to your Facility.

- <sup>7</sup> This includes general construction, minimal site work and landscaping. The cost of construction may vary substantially from location to location. The type of construction used, cost of materials, labor costs, local code requirements and other factors will affect the cost.
- <sup>8</sup> Includes FF&E for all areas of the Facility including guest rooms and public area. These items are typically driven by the decorative furnishings package. The estimate presumes that you will install our approved interior design package in all guest rooms and public areas. Items included in the interior design package for the guest room and public areas may include flooring, artwork and mirrors, casegoods, bedding and bed frames, lighting, seating, softgoods, upholstered goods, wallcoverings and window treatments. Tax ~~is averaged at 7% and requires verification at the time of purchase.~~ Freight, ~~warehousing and installation~~ is are estimated at approximately 20% (must be confirmed upon purchasing). Installation costs are not factored into these numbers and must be confirmed upon purchasing.
- <sup>9</sup> ~~Includes the cost of materials and installation for one pylon sign, one wall mounted sign, channel letters and one directional sign. Your actual cost will depend on many variables including sign size, materials and height, distance signs must be shipped, labor costs and local ordinances.~~
- <sup>10</sup> Operating supplies and equipment (“OS&E”) includes: mattresses/box springs, bed frames, televisions, terry, linen, pillows, logoed items, housekeeping supplies, bathroom amenities/supplies, guestroom amenities/supplies (telephone, clock, coffee maker, iron, hangers, etc.), safes, cribs, luggage racks, luggage carts, ~~interior signage,~~ breakfast display equipment, public restroom supplies, floor mats, name badges, key cards & folders, and miscellaneous items (razors, first aid kit, deodorant, toothpaste, etc.). The low end of the range assumes you will purchase all of the OS&E to open in compliance with System Standards. The high end of the range assumes you have chosen to purchase optional/suggested items not required by System Standards, but which you might choose to purchase. Optional / suggested items include: additional linens and collateral, rollaway beds, guest laundry, flags, employee facilities, etc. ~~Pries do not include freight or tax~~ Tax and Freight are estimated at 15%. Costs should be confirmed upon purchasing.
- <sup>11</sup> ~~This is the fee for the required photo package for your Facility.~~
- <sup>12</sup> You must maintain commercial general liability insurance with combined single limits per occurrence of \$1 million in primary coverage and \$3 million in excess liability umbrella coverage (\$4 million total), plus other required coverage. Insurance requirements are subject to change on a Chain-wide basis. This does not include your costs for property and casualty insurance, workers’ compensation, employer’s liability, disability and other insurance benefits for your employees.
- <sup>13</sup> The low end of the range presumes only your general manager will attend our Hospitality Management Program training. It also presumes your facility qualifies for one day of mandatory Opening Training. The high end of the range presumes that you or one of your representatives will also attend Hospitality Management Program

training. The ~~tuition cost for you or another staff member to attend the Hospitality Management Program in addition to your general manager is \$1,400~~ high end also presumes your facility qualifies for five days of mandatory Opening Training and your owner chooses to attend the optional New Owner Orientation.

<sup>14</sup> The low end of the range presumes that only your general manager will attend our Hospitality Management Program and that he/she will drive to the program. The low end of the range includes minimal travel costs, mid-level lodging and meal expenses. The low end of the range also includes one day of facilitator travel costs for mandatory Opening Training. The high end of the range presumes that you or one of your representatives will also attend Hospitality Management Program training and will incur significant airfare, car rental, lodging and meal expenses. The high end of the range also includes five days of facilitator travel costs for mandatory Opening Training and owner's travel costs for optional New Owner Orientation. Tuition costs are not included in Training Expenses.

~~<sup>14</sup> The low end of the range presumes that only your general manager will attend our Hospitality Management Program and that he/she will drive to the program. The low end estimate includes minimal travel costs, mid-level lodging and meal expenses. The high end of the range presumes that you or one of your representatives will also attend the training and will incur significant airfare, car rental, lodging and meal expenses. Tuition for your general manager and, if applicable, additional representative is not included in Training Expenses.~~

<sup>15</sup> The amounts presented includes costs associated with the guest room and public area high speed Internet access, PBX/telephone system (including consoles and guest room and administrative telephones) and television system. The low end of the range presumes that you will procure all of the above and you purchase the base system equipment. The high end of the range assumes you will procure all of the above, and also assumes that you acquire top of the line ~~systems and equipment for which to operate the PMS. See Item 11 for information about the PMS.~~

<sup>16</sup> All Chain Facilities must procure an approved PMS so they can interface with the Central Reservation System. The amounts presented include costs associated with the PMS Set-Up and Installation. The low end of the range assumes you select the base SynXis PMS for the Facility. The high end of the range assumes that you select the Premium OPERA SaaS Subscription Model system for the Facility. See Item 11 for information about PMS.

~~<sup>17</sup> Includes attorneys' and accountants' fees, business license fees, surveys, bank fees, the cost of back office accounting systems, and similar business startup expenses.~~

<sup>17</sup> Includes attorneys' and accountants' fees, business license fees, surveys, bank fees, the cost of back office accounting systems, and similar business startup expenses.

<sup>18</sup> This amount is calculated as 5% of Facility Construction costs.

<sup>19</sup> This amount is an estimate and includes the Recurring Fees you will pay us after opening. It does not include debt service payments or rent. Many factors affect initial period Gross Room Revenues and operating costs, including seasonality, pre-opening

advertising and marketing, location, your management ability, staff performance and local market factors such as competition for customers and employees. Our estimate is based on our experience and the experience of our Lodging Affiliates and their franchisees or members in operating similarly situated brands over the last two years. These expenses include labor costs. We do not guarantee that you will not have additional expenses starting the business.

**<sup>20</sup> None of the fees and costs payable to us in the above tables is refundable. Fees and costs payable to suppliers and other third parties above generally are not refundable unless you negotiate that directly with them. See Item 10 for a discussion of financing which might be available for portions of your initial investment in a Chain Facility.**

### **ITEM 8. RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

Except as disclosed below, you are not required to purchase or lease products or services 1) from us or our affiliates, 2) from suppliers approved by us, or 3) under our specifications. We may derive commissions or other revenue as a result of these purchases and leases.

#### **Standards and Specifications**

To assure consistency among Chain Facilities, each Facility must meet System Standards. These standards require that most of the items you use or sell at your Facility meet our specifications. Items that must meet our specifications include certain aspects of the Facility's construction, certain services you offer in the Facility, including food and beverage services, the Facility's equipment, décor and amenities, guest room size, signage, photographs, advertising, furniture and fixtures, various supplies, bath and bed linens, draperies, bed toppings, mattresses and box springs, carpet, wall coverings, lighting, wireless high-speed Internet access, property management system, computer hardware, peripheral equipment, operating system software, telephone, lock systems, insurance, and in certain circumstances your third party manager or management company and management agreement. Our specifications may include minimum requirements for delivery, performance, design, appearance and quality. We will provide you this information in our Standards

**<sup>1</sup> If you are a corporation, partnership or other entity, your significant owners must sign a ~~guaranty (see Exhibit C-1) agreeing to assume and discharge all obligations of the member under the Membership Agreement. If we offer you Development Incentive financing (see Item 10), your significant owners must co-sign the Development Incentive Note with you. If the significant owners are residents of community property or certain other states, their spouses must also sign the note.~~**

<sup>1</sup>For purposes of this Item 20, U.S. includes the continental United States, Alaska, Hawaii, and Puerto Rico.

# **EXHIBIT A**

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## **STATE ADDENDA**

Following this page are addenda for the states of California, Hawaii, Illinois, Indiana, Maryland, Minnesota, New York, North Dakota, Rhode Island, Virginia, Washington and Wisconsin. If you or your Facility are located in one of these states, please read the addendum for your state and the addendum to the Franchise Agreement that may apply to your transaction with us.

The regulatory authorities and registered agents for service of process in each state are listed in Exhibit B.

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT PURSUANT TO THE  
CALIFORNIA FRANCHISE INVESTMENT LAW**

The following provisions supersede the Franchise Disclosure Document and apply to all licenses or franchises offered and sold in the State of California:

1. The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec. 101 et seq.).
2. The Franchise Agreement requires application of the laws of New Jersey. This provision may not be enforceable under California law.
3. If the Franchise Agreement requires you to execute a general release of claims upon renewal or transfer of the Franchise Agreement, California Corporations Code Section 31512 provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of that law or any rule or order thereunder is void. Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Section 31000-31516). California Business and Professions Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000-20043).
4. The Franchise Agreement contains a liquidated damages clause. Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable.
5. The Franchise Agreement contains a waiver of punitive damages provision and a waiver of jury trial provision, which may not be enforceable.
6. We have or will comply with all of the requirements under California Corporations Code, Section 31109.1, with respect to negotiated sales.
7. PROSPECTIVE FRANCHISEES ARE ENCOURAGED TO CONSULT PRIVATE LEGAL COUNSEL TO DETERMINE THE APPLICABILITY OF CALIFORNIA AND FEDERAL LAWS (SUCH AS BUSINESS AND PROFESSIONS CODE SECTION 20040.5, CODE OF CIVIL PROCEDURE SECTION 1281, AND THE FEDERAL ARBITRATION ACT) TO ANY PROVISIONS OF A FRANCHISE AGREEMENT RESTRICTING VENUE TO A FORUM OUTSIDE THE STATE OF CALIFORNIA.
8. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE DISCLOSURE DOCUMENT.
9. THESE FRANCHISES WILL BE/HAVE BEEN REGISTERED (OR EXEMPT FROM REGISTRATION) UNDER THE FRANCHISE INVESTMENT LAW OF THE STATE OF CALIFORNIA. SUCH REGISTRATION (OR EXEMPTION) DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR ENDORSEMENT BY THE COMMISSIONER OF BUSINESS OVERSIGHT NOR A FINDING BY THE COMMISSIONER THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE, AND NOT MISLEADING.
10. OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT AT [www.dbo.ca.gov](http://www.dbo.ca.gov).

11. SECTION 31125 OF THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES US TO GIVE YOU A DISCLOSURE DOCUMENT APPROVED BY THE COMMISSIONER OF BUSINESS OVERSIGHT BEFORE WE ASK YOU TO CONSIDER A MATERIAL MODIFICATION OF YOUR FRANCHISE AGREEMENT.

12. Item 17 of the Disclosure Document is amended by the insertion of the following:

The California Franchise Relations Act (Business and Professions Code Section 20000 through 20043) provides rights to you concerning termination, transfer, or nonrenewal of a franchise. If the Franchise Agreement is inconsistent with the law, the law will control.

13. Each provision of this Addendum to the Franchise Disclosure Document shall be effective only to the extent that with respect to such provision, the jurisdictional requirements of the California Franchise Investment Law are met independently without reference to this Addendum.

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT PURSUANT TO THE  
HAWAII FRANCHISE INVESTMENT LAW**

**THESE FRANCHISES 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 THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS OR A FINDING BY THE DIRECTOR OF THE DEPARTMENT 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 (7) DAYS PRIOR TO THE EXECUTION BY THE PROSPECTIVE FRANCHISEE, OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST SEVEN (7) 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 FRANCHISE 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.**

1.
  - A. TMH Worldwide, LLC's Disclosure Document is currently registered in the states of: Hawaii, Minnesota, South Dakota, Virginia, Washington and Wisconsin.
  - B. This registration or an exemption application is on file in the States of California, Florida, Hawaii, Maryland, Michigan, Minnesota, North Dakota, Rhode Island, South Dakota, Virginia, Washington 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.
2. No release language set forth in the Franchise Agreement shall relieve us or any other person, directly or indirectly, from liability imposed by the laws concerning franchising in the State of Hawaii.
3. The Franchisor's registered agent in the state authorized to receive service of process is:

Commissioner of Securities of Department of Commerce and Consumer Affairs  
335 Merchant Street  
Honolulu, Hawaii 96813
4. Item 17(m) of the FDD is amended by adding the following information:

In connection with a transfer, you must sign a release of any claims you may have against TMH Worldwide, LLC. However, the release will not apply to any claim you may have under Hawaii law.

Each provision of this Addendum to the Disclosure Document is effective only to the extent with respect to such provision that the jurisdictional requirements of the Hawaii Franchise Investment Law are met independently without reference to this Disclosure Document.

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT PURSUANT TO THE  
ILLINOIS FRANCHISE DISCLOSURE ACT**

The following provisions supersede the Franchise Disclosure Document and apply to all licenses or franchises offered and sold in the State of Illinois:

1. Illinois law governs the franchise agreements.
2. In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in a franchise agreement that designates jurisdiction and venue in a forum outside of the State of Illinois is void. However, a franchise agreement may provide for arbitration to take place outside of Illinois.
3. Franchisees' rights upon termination and non-renewal are set forth in Sections 19 and 20 of the Illinois Franchise Disclosure Act.
4. In conformance with Section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.
5. Each provision of this Addendum to the Franchise Disclosure Document shall be effective only to the extent that with respect to such provision, the jurisdictional requirements of the Illinois Franchise Disclosure Act of 1987 are met independently without reference to this Addendum.

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT PURSUANT TO THE  
INDIANA DECEPTIVE FRANCHISE PRACTICES LAW**

The following provisions supersede the Franchise Disclosure Document and apply to all licenses or franchises offered and sold in the State of Indiana:

To the extent the provisions of the Franchise Disclosure Document or Franchise Agreement are inconsistent with the Indiana Deceptive Franchise Practices Law, Indiana Code § 23-2-2.7-1 to 23-2-2.7-7, that law will control.

Each provision of this Addendum to the Disclosure Document shall be effective only to the extent that, with respect to such provision, the jurisdictional requirements of the Indiana Franchise Act are met independently without reference to this Addendum.

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT PURSUANT TO THE  
MARYLAND FRANCHISE REGISTRATION AND DISCLOSURE LAW**

The following provisions supersede the Franchise Disclosure Document and apply to all licenses or franchises offered and sold in the State of Maryland:

1. Notwithstanding any provision in the Franchise Disclosure Document or the Franchise Agreement to the contrary, a franchisee may bring a lawsuit in Maryland against us for claims arising under the Maryland Franchise Registration and Disclosure Law.
2. The fourth sentence of the fourth paragraph under the caption “D. Marketing and Advertising” in Item 11 is deleted and replaced with the following:

Franchisees who are Maryland residents or will operate a Facility in Maryland may receive an accounting of expenditures from the Fund by contacting the Senior Vice President of Financial Planning and Analysis in writing.
3. Item 17 of the Franchise Disclosure Document states that the Franchise Agreement will automatically terminate upon the bankruptcy of franchisee. This provision may not be enforceable under current Federal bankruptcy law (11 U.S.C. Section 101 et seq.).
4. Items 17(c) and 17(m) are revised to provide that, pursuant to COMAR 02.02.08.16L, the general release required as a condition to renewal, sale or consent to assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.
5. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.
6. The Franchise Agreement states that New Jersey law generally applies. However, the conditions under which your franchise can be terminated and your rights upon nonrenewal may be affected by Maryland laws, and we will comply with that law in Maryland.
7. Each provision of this Addendum to the Disclosure Document shall be effective only to the extent that, with respect to such provision, the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law are met independently without reference to this Addendum.

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT PURSUANT TO THE  
MINNESOTA FRANCHISE INVESTMENT LAW**

The following provisions supersede the Franchise Disclosure Document and apply to all licenses or franchises offered and sold in the State of Minnesota:

1. Minnesota law provides franchisees with certain termination, non-renewal and transfer rights. Minnesota Statutes, Section 80C.14, Subdivisions 3, 4 and 5 require, except in certain specified cases, that the franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the Franchise Agreement and that consent to the transfer of the franchise will not be unreasonably withheld.
2. Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release from liability imposed by Minnesota Statutes, Chapter 80C; provided, that this shall not bar the voluntary settlement of disputes.
3. The following language is added at the end of Item 17 of the Franchise Disclosure Document:

Minnesota Statutes, Section 80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside of Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. Nothing in the Franchise Disclosure Document or the Agreement 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 Minnesota.
4. Item 13 is revised to include the following language:

To the extent required by the Minnesota Franchise Act, we will protect your rights to use the trademarks, service marks, trade names, logo types or other commercial symbols related to the trademarks or indemnify you from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the trademarks, provided you are using the names and marks in accordance with the Franchise Agreement.
5. Item 17(c) and 17(m) are revised to provide that we cannot require you to sign a release of claims under the Minnesota Franchise Act as a condition to renewal or assignment.
6. With respect to franchises governed by Minnesota law, we will comply with Minnesota Statutes, Section 80C.17, Subd. 5 with respect to limitation of claims.
7. Each provision of this Addendum shall be effective only to the extent that, with respect to such provision, the jurisdictional requirements of Minnesota Statutes, Chapter 80C are met independently without reference to this Addendum.

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT PURSUANT TO THE  
NEW YORK STATE FRANCHISE ACT**

The following provisions supersede the Franchise Disclosure Document and apply to all licenses or franchises offered and sold in the State of New York:

1. The following information is added to the cover page of the Franchise Disclosure Document:

**INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT B OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS, APPROVES OR ENDORSES IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 28 LIBERTY STREET, 21ST FLOOR, NEW YORK, NEW YORK 10005. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.**

2. The following is added at the end of Item 3:

Except as provided above, with regard to the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

A. No such party has an administrative, criminal or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust, or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, or comparable civil or misdemeanor allegations.

B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.

C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10 year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud, or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or

is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of Item 4:

Neither the franchisor, its affiliate, its predecessor, officers, or general partner during the 10-year period immediately before the date of the offering circular: (a) filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after that officer or general partner of the franchisor held this position in the company or partnership.

4. The following is added to the end of Item 5:

The initial franchise fee constitutes part of our general operating funds and will be used as such in our discretion.

5. The following is added to the end of the “Summary” sections of Item 17(c), titled “Requirements for franchisee to renew or extend,” and Item 17(m), entitled “Conditions for franchisor approval of transfer”:

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of General Business Law Sections 687.4 and 687.5 be satisfied.

6. The following language replaces the “Summary” section of Item 17(d), titled “Termination by franchisee”:

You may terminate the agreement on any grounds available by law.

7. The following is added to the end of the “Summary” section of Item 17(j), titled “Assignment of contract by franchisor”:

However, no assignment will be made except to an assignee who in good faith and judgment of the franchisor, is willing and financially able to assume the franchisor’s obligations under the Franchise Agreement.

8. The following is added to the end of the “Summary” sections of Item 17(v), titled “Choice of forum”, and Item 17(w), titled “Choice of law”:

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by Article 33 of the General Business Law of the State of New York.

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT PURSUANT TO THE  
NORTH DAKOTA FRANCHISE INVESTMENT LAW**

The following provisions supersede the Franchise Disclosure Document and apply to all licenses or franchises offered and sold in the State of North Dakota:

**THE NORTH DAKOTA SECURITIES COMMISSIONER HAS HELD THE FOLLOWING TO BE UNFAIR, UNJUST OR INEQUITABLE TO NORTH DAKOTA FRANCHISEES (NDCC SECTION 51-19-09):**

- A. Restrictive Covenants:** Franchise disclosure documents that disclose the existence of covenants restricting competition contrary to NDCC Section 9-08-06, without further disclosing that such covenants will be subject to the statute.
- B. Restrictions on Forum:** Requiring North Dakota franchisees to consent to the jurisdiction of courts outside of North Dakota.
- C. Liquidated Damages and Termination Penalties:** Requiring North Dakota franchisees to consent to liquidated damages or termination penalties.
- D. Applicable Laws:** Franchise Agreements that specify that they are to be governed by the laws of a state other than North Dakota.
- E. Waiver of Trial by Jury:** Requiring North Dakota Franchises to consent to the waiver of a trial by jury.
- F. Waiver of Exemplary & Punitive Damages:** Requiring North Dakota Franchisees to consent to a waiver of exemplary and punitive damage.
- G. General Release:** Franchise Agreements that require the franchisee to sign a general release upon renewal of the franchise agreement.
- H. Limitation of Claims:** Franchise Agreements that require the franchisee to consent to a limitation of claims. The statute of limitations under North Dakota law applies.
- I. Enforcement of Agreement:** Franchise Agreements that require the franchisee to pay all costs and expenses incurred by the franchisor in enforcing the agreement. The prevailing party in any enforcement action is entitled to recover all costs and expenses including attorney's fees. Each provision of this Addendum shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the North Dakota Franchise Investment Law are met independently without reference to this Addendum.

To the extent this Addendum is inconsistent with any terms or conditions of the Franchise Agreement or exhibits or attachments thereto, or the Franchise Disclosure Document, the terms of this Addendum shall govern.

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT PURSUANT TO THE  
RHODE ISLAND FRANCHISE INVESTMENT ACT**

The following provisions supersede the Franchise Disclosure Document and apply to all licenses or franchises offered and sold in the State of Rhode Island:

1. The Franchise Agreement shall be governed by Rhode Island Law with respect to any claim enforceable under the Rhode Island Franchise Investment Act (the “Act”).
2. Section 19-28.1-14 of the Act provides that a provision in a license or franchise agreement restricting jurisdiction or venue to a forum outside the State of Rhode Island is void with respect to a claim otherwise enforceable under the Act.
3. Each provision of this Addendum shall be effective only to the extent that, with respect to such provision, the jurisdictional requirements of the Rhode Island Franchise Investment Act (§§ 19-28.1-1 through 19-28.1-34) are met independently without reference to this Addendum.

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT PURSUANT TO THE  
VIRGINIA RETAIL FRANCHISING ACT**

In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the Franchise Disclosure Document for TMH Worldwide, LLC. for use in the Commonwealth of Virginia shall be amended as follows:

The following statements are added to Item 17.h of the Franchise Disclosure Document and Section 11 of the Franchise Agreement.

Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a licensor to cancel a franchise without reasonable cause. If any grounds for default or termination stated in the Franchise Agreement does 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.

Each provision of this Addendum shall be effective only to the extent that, with respect to such provision, the jurisdictional requirements of the Virginia Retail Franchising Act are met independently without reference to this Addendum.

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT PURSUANT TO THE  
WASHINGTON FRANCHISE INVESTMENT LAW**

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.

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.

A release or waiver of rights executed by a franchisee shall not include rights under the Washington Franchise Investment Protection Act except when executed pursuant to a negotiated settlement after the 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, rights or remedies under the Act such as a right to a jury trial may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

Each provision of this Addendum shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Washington Franchise Investment Protection Act (Wash. Rev. Code §§ 19.100.010 through 19.100.940) are met independently without reference to this Addendum.

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT PURSUANT TO THE  
WISCONSIN FRANCHISE INVESTMENT LAW**

The following provisions supersede the Franchise Disclosure Document and apply to all franchises offered and sold in the State of Wisconsin:

The Wisconsin Fair Dealership Law applies to most franchise agreements in the state and prohibits termination, cancellation, non-renewal or substantial change in competitive circumstances of a dealership agreement without good cause. The law further provides that 90 days prior written notice of the proposed termination, etc. must be given to the dealer. The dealer has 60 days to cure the deficiency and if the deficiency is so cured the notice is void. The Disclosure Document and Franchise Agreement are hereby modified to state that the Wisconsin Fair Dealership Law, to the extent applicable, supersedes any provisions of the Franchise Agreement that are inconsistent with the Wisconsin Fair Dealership Law, Wis. Stat. Ch. 135.

## **EXHIBIT B**

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**FEDERAL AND STATE REGULATORY AUTHORITIES  
AND  
REGISTERED AGENTS FOR SERVICE OF PROCESS**

**CALIFORNIA**

Commissioner of Business Oversight  
California Department of Business Oversight  
320 West 4<sup>th</sup>, Suite 750  
Los Angeles, California 90013-2344  
(866) 275-2677

**Agent:**

Commissioner of Business Oversight  
California Department of Business Oversight  
320 West 4<sup>th</sup>, Suite 750  
Los Angeles, California 90013-2344  
(866) 275-2677

**HAWAII**

Commissioner of Securities  
Department of Commerce and Consumer  
Affairs  
Business Registration Division  
335 Merchant Street, Room 203  
Honolulu, Hawaii 96813  
(808) 586-2722

**Agent:**

Commissioner of Securities  
Department of Commerce and Consumer  
Affairs  
Business Registration Division  
335 Merchant Street, Room 203  
Honolulu, Hawaii 96813  
(808) 586-2722

**ILLINOIS**

Office of Attorney General  
Franchise Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-4465

**Agent:**

Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-4465

**INDIANA**

Indiana Secretary of State  
Securities Division  
302 West Washington Street  
Room E-111  
Indianapolis, Indiana 46204  
(317) 232-6681

**Agent:**

Indiana Secretary of State  
Securities Division  
302 West Washington Street  
Indianapolis, Indiana 46204  
(317) 232-6681

**MARYLAND**

Office of Attorney General  
Securities Division  
200 St. Paul Place  
Baltimore, Maryland 21202-2020  
(410) 576-6360

**Agent:**

Maryland Securities Commissioner  
200 St. Paul Place  
Baltimore, MD 21202-2020  
(410) 576-6360

**MICHIGAN**

Michigan Office of Attorney General  
Consumer Protection Division  
Franchise Section  
525 W. Ottawa St.  
G. Mennen Williams Building, 1<sup>st</sup> Floor  
Lansing, Michigan 48933  
(517) 373-7117

**Agent:**

Michigan Office of Attorney General  
Consumer Protection Division  
Franchise Section  
525 W. Ottawa St.  
G. Mennen Williams Building, 1<sup>st</sup> Floor  
Lansing, Michigan 48933  
(517) 373-7117

**MINNESOTA**

Minnesota Department of Commerce  
Securities – Franchise Registration  
85 7<sup>th</sup> Place East, Ste. 280  
St. Paul, Minnesota 55101-2198  
(651) 539-1500

**Agent:**

Commissioner of Commerce  
85 7<sup>th</sup> Place East, Ste. 280  
St. Paul, Minnesota 55101-2198  
(651) 539-1500

**NEW YORK**

New York State Department of Law  
Bureau of Investor Protection and Securities  
120 Broadway, 23<sup>rd</sup> Floor  
New York, New York 10271  
(212) 416-8236

**Agent:**

New York Secretary of State  
New York Department of State  
Once Commerce Plaza  
99 Washington Ave, 6<sup>th</sup> Fl  
Albany, NY 12231-0001  
(518) 473-2492

**NORTH DAKOTA**

North Dakota Securities Department  
600 East Boulevard Avenue  
State Capitol - 5th Floor  
Bismarck, North Dakota 58505-0510  
(701) 328-4712

**Agent:**

North Dakota Securities Commissioner  
600 East Boulevard Avenue  
State Capitol - 5th Floor  
Bismarck, North Dakota 58505-0510  
(701) 328-4712

**RHODE ISLAND**

Rhode Island Department of Business  
Regulations  
Securities Division  
John O. Pastore Center  
1511 Pontiac Avenue, Building 68-2  
Cranston, Rhode Island 02920  
(401) 462-9527

**Agent:**

Director of Department of Business  
Regulation  
Securities Division  
John O. Pastore Center  
1511 Pontiac Avenue, Building 68-2  
Cranston, Rhode Island 02920  
(401) 462-9527

**SOUTH DAKOTA**

Division of Insurance  
Securities Regulation  
124 S. Euclid Suite 104  
Pierre, South Dakota 57501  
(605) 773-3563

**Agent:**

Director of Division of Insurance  
Securities Regulation  
124 S. Euclid Suite 104  
Pierre, South Dakota 57501  
(605) 773-3563

**VIRGINIA**

State Corporation Commission  
Division of Securities and Retail Franchising  
1300 East Main Street, 9th Floor  
Richmond, Virginia 23219  
(804)371-9051

**Agent:**

Clerk of the State Corporation Commission  
1300 East Main Street, 1st Floor  
Richmond, Virginia 23219  
(804) 371-9733

**WASHINGTON**

Department of Financial Institutions  
Securities Division- 3<sup>rd</sup> Floor  
150 Israel Road SW  
Tumwater, WA 98501  
(360) 902-8760

**Agent:**

Director of Department of Financial  
Institutions  
Securities Division – 3<sup>rd</sup> Floor  
150 Israel Road SW  
Tumwater, WA 98501  
(360) 902-8760

**WISCONSIN**

Department of Financial Institutions  
Division of Securities  
201 West Washington Avenue  
Third Floor  
Madison, Wisconsin 53703  
(608) 266-8557

**Agent:**

Commissioner of Securities  
201 West Washington Avenue  
Third Floor  
Madison, Wisconsin 53703  
(608) 266-8557

There may be states in addition to those listed above in which Franchisor has appointed an agent for service of process. There may also be additional agents appointed in some of the states listed

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**EXHIBIT C-1**

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Location:  
Entity No.:  
Unit No.:

**TMH WORLDWIDE, LLC**  
**MEMBERSHIP AGREEMENT**

THIS MEMBERSHIP AGREEMENT (“Agreement”), dated \_\_\_\_\_, 20\_\_\_\_, is between TMH WORLDWIDE, LLC, a Delaware limited liability company (“we”, “our” or “us”), and \_\_\_\_\_ (“you”). The definitions of capitalized terms are found in Appendix A. In consideration of the following mutual promises, the parties agree as follows:

**1. Membership.** We have the exclusive right to license to you membership in the distinctive “Trademark Collection” System for providing transient guest lodging services. We grant to you and you accept the Membership, effective and beginning on the Opening Date and ending on the earliest to occur of the Term’s expiration or a Termination. The Membership is effective only at the Location and may not be transferred or relocated. You will retain the existing name of the Facility, or adopt your own name for the Facility (with our prior written consent) from opening “the Property Mark”, followed by the words “**a Trademark Collection by Wyndham**” You may change the primary designation for the Facility with our prior written consent, which we may withhold, condition, or withdraw on written notice in our sole discretion. You shall not affiliate or identify the Facility with any other membership, franchise system, reservation system, brand, or cooperative during the Term.

**2. Reserved Rights.** You acknowledge that (i) the Membership relates solely to the Location and (ii) unless otherwise set forth herein, this Agreement does not entitle you to any protected territory, territorial rights or exclusive area. You further acknowledge that we and our affiliates have and retain the right to own, develop and operate, and to license others to develop and operate, hotels and lodging facilities (including without limitation, midscale, economy, upscale, luxury, select service, resort and garden hotels and extended stay facilities), timeshare or vacation ownership resort properties, restaurants or other business operations of any type whatsoever, under any trade name, trademark and service mark at any location except the Location, including locations adjacent, adjoining or proximate to the Location, and that these business operations may compete directly with and adversely affect the operation of the Facility. You agree that we or our affiliates may exercise these rights from time to time without notice to you, and you covenant that you shall take no action, including any action in a court of law or equity, which may interfere with our or our affiliates’ exercise of such rights. Further, while this Agreement is in effect, neither you nor your officers, directors, general partners or owners of 25% or more of your Equity Interests, may own, operate, lease, manage or franchise any time share resort, vacation club, residence club, fractional ownership residence, condominium/apartment leasing or rental business or the like for any facility or business that shares directly or indirectly, common areas, amenities, recreation facilities, services, supplies or support activities with the Facility.~~You acknowledge that (i) the Membership relates solely to the Location and (ii) unless otherwise set forth herein, this Agreement does not entitle you to any protected territory, territorial rights or~~

~~exclusive area. You further acknowledge that we and our affiliates have and retain the right to own, develop and operate, and to license others to develop and operate, hotels and lodging facilities (including without limitation, midscale, economy, upscale, luxury, select service, resort and garden hotels and extended stay facilities), timeshare or vacation ownership resort properties, restaurants or other business operations of any type whatsoever, under any trade name trademark and service mark at any location except the Location, including locations adjacent, adjoining or proximate to the Location, and that these business operations may compete directly with and adversely affect the operation of the Facility. You agree that we or our affiliates may exercise these rights from time to time without notice to you, and you covenant that you shall take no action, including any action in a court of law or equity, which may interfere with our or our affiliates' exercise of such rights. Further, while this Agreement is in effect, neither you nor your officers, directors, general partners or owners of 25% or more of your Equity Interests, may own, operate, lease, manage or franchise any time share resort, vacation club, residence club, fractional ownership residence, condominium/apartment leasing or rental business or the like for any facility or business that shares directly or indirectly, common areas, amenities, recreation facilities, services, supplies or support activities with the Facility.~~

## **2.3. Your Improvement and Operating Obligations.**

**2.13.1 Pre-Opening Improvements.** You must select, acquire, construct and/or renovate the Facility as provided in Schedule D.

## **3.2 Operation.**

**3.2.1** You will operate and maintain the Facility continuously after the Opening Date on a year-round basis as required by System Standards and offer transient guest lodging and other related services of the Facility (~~including those specified on Schedule B~~ including those required by System Standards or as specified on the Punch List) to the public in compliance with all federal, state and local laws, regulations and ordinances as well as the System Standards. You will keep the Facility in a clean, neat, and sanitary condition. You will clean, repair, replace, renovate, refurbish, paint, and redecorate the Facility and its FF&E as and when needed to comply with System Standards.

**3.2.2** The Facility will be managed by either a management company or an individual manager with significant training and experience in general management of similar lodging facilities. If the Facility is managed by a management company, the management agreement between you and the management company for the Facility shall be subject and subordinate to this Agreement and in the event of any conflict between the management agreement and this Agreement, the controlling contract shall be this Agreement, the management agreement shall not release you of any obligations set forth in this Agreement.

**3.1.3** The Facility will accept payment from guests by all credit and debit cards or other forms of payment we designate in the System Standards Manual. The Facility will comply with the Payment Card Industry Data Security Standard (PCI DSS) concerning follow standard industry practices for safeguarding cardholder information, as well as applicable laws and regulations, and

such other requirements as we may include in the System Standards Manual or as we may otherwise communicate from time to time for such purpose.

**3.2.4** You may add to or discontinue the amenities, services and facilities ~~described in Schedule Bas required by System Standards or as specified on the Punch List~~, or lease or subcontract any service or portion of the Facility, only with our prior written consent which we will not unreasonably withhold or delay. Your front desk operation, telephone system, parking lot, swimming pool and other guest service facilities may not be shared with or used by guests of another lodging or housing facility. You acknowledge that any breach of System Standards for the Facility, its guest amenities, and your guest service performance is a material breach of this Agreement.

**3.2.5** Upon our reasonable request, you will provide us with then-current copies of the documents evidencing your ownership of, or right to possess, the Facility and/or the real property upon which the Facility is located, and a complete and accurate list of all of your owners and their Equity Interests.

**2.23.3 Training.** You (or a person with executive authority if you are an entity) and the Facility's general manager (or other representative who exercises day to day operational authority) will attend the training programs described in Section 4.1 we designate as mandatory for members or general managers, respectively. You will train or cause the training of all Facility personnel as and when required by System Standards and this Agreement. You will pay for all travel, lodging, meals and compensation expenses of the people you send for training programs, the cost of training materials and other reasonable charges we may impose for training under Section 4.1, and all travel, lodging, meal and facility and equipment rental expenses of our representatives if training is provided at the Facility.

#### **2.33.4 Marketing.**

**2.3.13.4.1** You will participate in System marketing programs, including the ~~DirectoryChain Websites~~, if any, the Reservation System, and guest loyalty programs. You will obtain and maintain the computer and communications service and equipment we specify to participate in the Reservation System. You will comply with our rules and standards for participation, and will honor reservations and commitments to guests and travel industry participants. You authorize us to offer and sell reservations for rooms and services at the Facility according to the rules of participation and System Standards. You may implement, at your option and expense, your own local advertising. Your advertising materials must use the Marks correctly, and must comply with System Standards or be approved in writing by us prior to publication. You will stop using any non-conforming, out-dated or misleading advertising materials if we so request.

**2.3.23.4.2** The Facility must participate in all mandatory Internet and distribution marketing activities and programs in accordance with the System Standards Manual, including any arrangements we make with third party distribution channels. You must provide us with information about the Facility and use our approved photographer for taking photographs of the Facility for posting on the Chain Websites, third party travel websites and various marketing

media. The content you provide us or use yourself for any Internet or distribution marketing activities must be true, correct and accurate, and you will promptly notify us in writing, in accordance with our processes that are then in effect, when any correction to the content becomes necessary. You must promptly modify at our request the content of any Internet or distribution marketing materials for the Facility you use, authorize, display or provide to conform to System Standards. You will discontinue any Internet or distribution marketing activities that conflict, in our reasonable discretion, with Chain-wide Internet or distribution marketing activities. You must honor the terms of any participation agreement you sign for Internet or distribution marketing activities. You will pay when due any fees, commissions, charges and reimbursements relating to Internet or distribution marketing activities (i) in which you agree to participate, or (ii) that we designate as mandatory on a Chain-wide basis. We may suspend the Facility's participation in Internet and/or distribution marketing activities if you default under this Agreement.

**2.3.33.4.3** You will participate in the Wyndham Rewards or any successor guest rewards or loyalty program we determine is appropriate and pay the Loyalty Program Charge associated with the program as set forth in Schedule C. The Wyndham Rewards Front Desk Guide sets forth additional standards, which you agree to follow. The Front Desk Guide, including fees assessed and reimbursements rates, may be revised at any time by us or our affiliates upon thirty (30) days' prior notice.

**2.3.43.4.4** As a requirement of your participation in the Reservation System, you must participate in our Signature Reservation Services ("SRS") program during the Term of the Agreement. Under the SRS program, you will pay the fees associated with certain ~~reservations~~ calls answered by our agents on behalf of the Facility. The program terms and fees associated with the program are described in the SRS agreement that you will sign and deliver to us at the same time as you sign this Agreement.

**2.43.5 Governmental Matters.** You will obtain as and when needed all governmental permits, licenses and consents required by law to construct, acquire, renovate, operate and maintain the Facility and to offer all services you advertise or promote. You will pay when due or properly contest all federal, state and local payroll, withholding, unemployment, beverage, permit, license, property, ad valorem and other taxes, assessments, fees, charges, penalties and interest, and will file when due all governmental returns, notices and other filings. You will comply with all applicable federal, state and local laws, regulations and orders applicable to you and/or the Facility, including those combating terrorism such as the USA Patriot Act and Executive Order 13224.

#### **2.53.6 Financial Books & Records; Audits.**

**2.5.13.6.1** The Facility's transactions must be timely and accurately recorded in accounting books and records prepared on an accrual basis compliant with generally accepted accounting principles of the United States ("GAAP") and consistent with the most recent edition of the Uniform System of Accounts for the Lodging Industry published by the American Hotel & ~~Motel~~ Lodging Association, as modified by this Agreement and System Standards. You acknowledge

that your accurate and timely accounting for and reporting of Gross Room Revenues is a material obligation you accept under this Agreement.

2.5.23.6.2 Upon our request, you will send to us copies of financial statements, tax returns, and other records relating to the Facility for the applicable accounting period that we require under this Agreement and System Standards. We may notify you of a date on which we propose to audit the Facility's books and records at the Facility but such notice is not required. You will be deemed to confirm our proposed date unless you follow the instructions with the audit notice for changing the date. You need to inform us where the books and records will be produced. You need to produce for our auditors at the confirmed time and place for the audit the books, records, tax returns and financial statements for the Facility. We may require access to the property including guest rooms. We may also perform an audit of the Facility's books and records remotely or electronically without advance notice or your knowledge. Your staff must cooperate with and assist our auditors to perform any audit we conduct.

2.5.33.6.3 We will notify you in writing if you default under this Agreement because (i) you do not cure a violation of Section 3.6.2 within 30 days after the date of the initial audit, (ii) you cancel two or more previously scheduled audits, (iii) you refuse to admit our auditors during normal business hours at the place where you maintain the Facility's books and records, or refuse to produce the books and records at the audit or send them to us as required under this Agreement and System Standards for the applicable accounting periods, (iv) our audit determines that the books and records you produced are incomplete or show evidence of tampering or violation of generally accepted internal control procedures, or (v) our audit determines that that you have reported to us less than 97% of the Facility's Gross Room Revenues for any fiscal year preceding the audit. Our notice of default may include, in our sole discretion and as part of your performance needed to cure the default under this Section 3.6, an "Accounting Procedure Notice." The Accounting Procedure Notice requires that you obtain and deliver to us, within 90 days after the end of each of your next three fiscal years ending after the Accounting Procedure Notice, an audit opinion signed by an independent certified public accountant who is a member of the American Institute of Certified Public Accountants addressed to us that the Facility's Gross Room Revenues you reported to us during the fiscal year fairly present the Gross Room Revenues of the Facility computed in accordance with this Agreement for the fiscal year. You must also pay any deficiency in Recurring Fees, any Audit Fee, as defined in Section 4.8, we assess you for your default of Section 3.6 as described in Section 4.8, and/or other charges we identify and invoice as a result of the audit.

2.5.43.6.4 You shall, at your expense, prepare and submit to us by the third day of each month, a statement in the form prescribed by us, accurately reflecting for the immediately preceding month all Gross Room Revenues and such other data or information as we may require. You must submit your statements to us using our on-line reporting and payment tool or through such other technology or means as we may establish from time to time.

2.63.7 Inspections. You acknowledge that the Facility's participation in our quality assurance inspection program (including unannounced inspections conducted in person and/or via electronic means) is a material obligation you accept under this Agreement. You will permit our

representatives to perform quality assurance inspections of the Facility at any time with or without advance notice. In person inspections will commence during normal business hours although we may observe Facility operation at any time. You and the Facility staff will cooperate with the representative performing the inspection. If the Facility fails an inspection, either in person or via electronic means, you refuse to cooperate with our representative, or you refuse to comply with our published inspection System Standards, then you will pay us when invoiced for any Reinspection Fee specified in System Standards Manuals plus the reasonable travel, lodging and meal costs our representative incurs for a reinspection. You will also be charged the Reinspection Fee if we are required to return to the Facility to inspect it as a result of your failure to complete any Improvement Obligation by the deadline established in the Punch List, as set forth in Schedule D. Your final quality assurance score may be comprised of several components, including but not limited to the results of paper and electronic customer satisfaction surveys of your guests as well as unsolicited feedback received from your guests. We may publish and disclose the results of quality assurance inspections and guest surveys. We may, at our discretion, implement a Chain-wide quality assurance/mystery shopper inspection program to be performed by a reputable third party. You must provide free lodging for the inspector(s) when he/she visits your Facility.

**2.73.8 Insurance.** You will obtain and maintain during the Term of this Agreement the insurance coverage required under the System Standards Manual from insurers meeting the standards established in the System Standards Manual. Unless we instruct you otherwise, your liability insurance policies will name as additional insureds TMH Worldwide, LLC, Wyndham Hotels & Resorts, Inc., Wyndham Hotel Group, LLC, and their current and former subsidiaries, affiliates, successors and assigns as their interests may appear. All policies must be primary and non-contributory with or excess of any insurance coverage that may be available to an additional insured. You must submit to us, annually, a copy of the certificate of or other evidence of renewal or extension of each such insurance policy as required by the System Standards. If you fail to procure or maintain the required insurance, then we will have the right (without any obligation) to procure such insurance at your cost plus a reasonable fee.

**2.83.9 Conferences.** You or your representative will attend each Chain conference and pay the Conference Registration Fee. The Chain conference may be held as part of a Wyndham Hotel Group, LLC multi-brand conference with special sessions and programs for our Chain only. Mandatory recurrent training for members and general managers described in Section 4.1.4 may be held at a conference. The Fee will be the same for all Chain Facilities that we license for membership in the United States. We will invoice and charge you for the Conference Fee even if you do not attend the Chain conference. You will receive reasonable notice of a Chain conference.

**2.93.10 Purchasing.** You will purchase or obtain certain items we designate as proprietary or that bear or depict the Marks only from suppliers we approve. You may purchase other items for the Facility from any competent source you select, so long as the items meet or exceed System Standards.

**2.103.11 Good Will.** You will use reasonable efforts to protect, maintain and promote the name “Trademark Collection” or “Trademark Collection by Wyndham” and its distinguishing

characteristics, and the other Marks. You will not permit or allow your officers, directors, principals, employees, representatives, or guests of the Facility to engage in conduct which is unlawful or damaging to the good will or public image of the Chain or System. You agree that, in event that you or any of your principals or Guarantors is or is discovered to have been, convicted of a felony or any other offense likely to reflect adversely upon us, the System or the Marks, such conviction is a material, incurable breach of this Section. You will follow System Standards for identification of the Facility and for you to avoid confusion on the part of guests, creditors, lenders, investors and the public as to your ownership and operation of the Facility, and the identity of your owners. You will participate in good faith in Chain-wide guest service and satisfaction guarantee programs we require ~~in good faith~~ for all Chain Facilities. You shall use your best efforts to promote usage of other Chain Facilities by members of the public. Without our prior written consent, which may be withheld in our sole discretion, you shall ensure that no part of the Facility or the System is used to further or promote a different or competing business, including without limitation, advertising or promotion for guest lodging facilities other than those licensed by us or our affiliates and marketing, advertising or promoting any timeshare or vacation ownership resort not affiliated with us, our affiliates, or Wyndham Destinations, Inc. and its affiliates. ~~Except as provided in the System Standards Manual or if you obtain our prior written consent, which we may withhold in our sole discretion, neither you nor the Facility shall promote or advertise any competing business at the Facility including, but not limited to, any other guest lodging facility, time share resort, vacation club, residence club, fractional ownership residence, condominium/apartment leasing or rental business, or the like, unless we or one of our current or former affiliates franchise, manage or own that business.~~

**2.113.12 Facility Modifications.** You may not materially modify, diminish or expand the Facility (or change its interior design, layout, FF&E, or facilities) until you receive our prior written consent, which we will not unreasonably withhold or delay. You will pay our Rooms Addition Fee then in effect for each guest room you add to the Facility before you begin construction of any expansion. If we so request, you will obtain our prior written approval of the plans and specifications for any material modification, which we will not unreasonably withhold or delay. You will not open to the public any material modification until we inspect it for compliance with the Approved Plans and System Standards.

**2.123.13 Courtesy Lodging.** You will provide lodging at the “Employee Rate” established in the System Standards Manual from time to time (but only to the extent that adequate room vacancies exist) to our representatives and members of their immediate family, ~~but~~ You are not required to provide more than ~~three-two~~ standard guest rooms at ~~the same time~~ this rate on any given night.

**2.133.14 Minor Renovations.** Beginning three years after the Opening Date, we may issue a “Minor Renovation Notice” to you that will specify reasonable Facility upgrading and renovation requirements (a “Minor Renovation”) to be commenced no sooner than 90 days after the notice is issued, having an aggregate cost for labor, FF&E and materials estimated by us to be not more than the Minor Renovation Ceiling Amount. You will perform the Minor Renovations as and when the Minor Renovation Notice requires. We will not issue a Minor Renovation Notice within three years after the date of a prior Minor Renovation Notice, or if the Facility

maintains an overall guest satisfaction score of at least 70% (seventy percent) of the maximum available score (e.g., at least three and one half out of five stars) on a leading hospitality guest review site that we designate, when the Facility is otherwise eligible for a Minor Renovation.

**2.143.15 Technology Standards & Communications.** You recognize that the System requires you to acquire, operate and maintain a computer-based property management system and provide guests with innovative technology for communications and entertainment. You must purchase the computer system and other equipment and software that we specify, including preventative maintenance software. We may modify System Standards to require new or updated technology at all Chain Facilities. At our request, you shall participate in any intranet or extranet system developed for use in connection with the System. Such intranet or extranet system may be combined with that of our affiliates. You shall agree to such terms and conditions for the use of such intranet or extranet system as we may prescribe, which may include, among other things: (a) confidentiality requirements for materials transmitted via such system; (b) password protocols and other security precautions; (c) grounds and procedures for our suspension or revocation of access to the system by you and others; and (d) a privacy policy governing the parties' access to and use of electronic communications posted on electronic bulletin boards or transmitted via the system. You shall pay any fee imposed from time to time by us or a third party service provider in connection with hosting such system.

**3.4. Our Operating and Service Obligations.** We will provide you with the following services and assistance:

**3.14.1 Training.** We may offer (directly or indirectly by subcontracting with an affiliate or a third party) general manager training, remedial training, re-certification training, and supplemental training.

**3.1.14.1.1 General Manager Training.** We will offer at our corporate offices or at another location we designate training for your general manager in our Hospitality Management Program. The program will not exceed two weeks in duration and will cover such topics as operating a Chain Facility, marketing and sales, financial management, guest services and people management. We may administer certain diagnostic tests via the Internet to measure the skill set of your general manager and, based in part ~~of~~on his/her score, offer certain Internet-based training as a supplement to the classroom training experience. Your initial general manager (or other representative who exercises day to day operational authority) for the Facility must complete this program to our satisfaction no later than 90 days after the Opening Date. Any replacement general manager must complete the training program to our satisfaction within 90 days after he/she assumes the position. If we do not offer a place in the training program within the above time frame, your replacement general manager must attend the next program held at which we offer a place. Your general manager for the Facility must complete the training even if you employ managers at other Chain Facilities who have already received this training. We charge you tuition for training for your general manager in our Hospitality Management Program which is set forth on Schedule D. If he/she does not attend the training within 90 days after the Opening Date, and for any replacement general manager, you must pay a separate tuition at the rate then in effect for the program when your manager attends the program. If you, or any other employee at the Facility,

wishes to attend the training with your general manager, you can do so and you must pay the Additional Attendee Fee, currently \$1,400 which is payable by the scheduled date for the program and is in addition to the tuition due for your general manager. We may charge you full or discounted tuition for “refresher” training for your general manager or for additional staff members who attend the training program with your general manager. We will charge the then in effect discounted tuition for any additional staff members who attend the training program with your general manager. You must also pay for your, your general manager and/or additional staff member’s travel, lodging, meals, incidental expenses, compensation and benefits.

**3.1.24.1.2 Remedial Training.** We may require you, your general manager and/or your staff to participate in remedial training if the Facility receives a D or F (or equivalent score) on a quality assurance inspection, or the Facility falls below an overall guest satisfaction score of at least 70% (seventy percent) of the maximum available score (e.g., at least three and one half out of five stars) on a leading hospitality guest review site that we designate. This training may be offered at our corporate offices, at a regional location, on-line or at the Facility. The training may be in the form of one or more classes held at different times and locations as we may require. You must pay the tuition in effect for this program when it is offered to you. If the training is provided at the Facility, you must provide lodging for our trainers. In addition, if at the time of your quality assurance inspection, you receive (i) a failure rating on guest room cleanliness and (ii) an average quality assurance score of F on cleanliness of guestroom category or cleanliness of bathroom category (based on a minimum of 10 electronic quality assurance guest surveys), then we may require you to take a one day, on-site remedial class on housekeeping within 60 days after the inspection. The tuition for an on-line class is currently \$250, but is subject to increase in the future. The fee for an on-site customer experience assessment or training class is currently \$1,250, but is subject to increase in the future.

**3.1.34.1.3 Ongoing Training and Support.** You must subscribe and pay an annual fee for access to our learning management system, Wyndham University, which includes training via live workshops, e-learning modules, webinars, online courses, videos and other educational resources, accessible by you and your staff via the Internet. All general managers must complete recertification training at such intervals as we may establish in the System Standards Manual. You must pay us the tuition then in effect for the program. We may offer other mandatory or optional training programs for reasonable tuition or without charge. Recertification and other supplemental training may be offered in our corporate offices or other locations or held in conjunction with a Chain lodging conference. You must pay the then current tuition for the training as well as for your representative’s travel, lodging, meals, incidental expenses, compensation and benefits while attending the training. We may offer, rent or sell to you ~~video tapes, computer discs~~ or other on-site training aids and materials, or require you to buy them at reasonable prices. We may also offer Internet-based training via the Chain’s intranet website.

**3.1.44.1.4 No Show and Cancellation Fees.** If you or your general manager, or any other member of your staff you designate, fails to register for a required training program within the required time period, or registers for a training program but fails to attend such program as scheduled without, notifying us in advance, whether such attendance is required or optional, we may charge you a ~~n~~No-~~s~~Show ~~f~~Fee of up to 100% of the tuition for the program. If you, your

general manager or any other member of your staff cancels participation in any training program less than seven (7) days before it is scheduled to be held, we may charge you a “~~c~~ancellation ~~f~~Fee” of up to 50% of the tuition for the program. ~~N~~o-~~s~~Show and ~~c~~ancellation ~~f~~ees are in addition to the tuition you will have to pay at the then offered rate when you or your general manager attends the program. We may assess you additional ~~n~~o-~~s~~Show or ~~c~~ancellation ~~f~~ees for continued failures by you under this Section 4.1

**3.34.2 Reservation System.** We will operate and maintain (directly or by subcontracting with an affiliate or one or more third parties) a computerized Reservation System or such technological substitute(s) as we determine, in our discretion. We or our Approved Supplier will provide software maintenance and support for any software we or an Approved Supplier license to you to connect to the Reservation System if you are up to date in your payment of Recurring Fees and all other fees you must pay under any other agreement with us, an affiliate or the supplier, as applicable. During the Term, the Facility will participate in the Reservation System on an exclusive basis, including entering into all related technology agreements and complying with all terms and conditions which we establish from time to time for participation. The Facility may not book any reservations through any other electronic reservation system, booking engine or other technology. You shall own and be responsible for compliance with all applicable laws, regulations or standards concerning all Guest Information within your possession or any service provider holding such information on your behalf, and we shall own and be responsible for compliance with all applicable laws, regulations or standards concerning all Guest Information within our possession or any service provider holding such information on our behalf. To the extent that you and we both possess identical Guest Information, your and our respective ownership rights and related compliance obligations with regard to such Guest Information shall be separate and independent from one another. We have the right to provide reservation services to lodging facilities other than Chain Facilities or to other parties.

### **3.34.3 Marketing.**

**3.3.14.3.1** We will use Marketing Fees we collect to promote public awareness and usage of Chain Facilities by implementing advertising, promotion, publicity, market research, loyalty marketing and other marketing programs, training programs and related activities as we deem appropriate. We will determine in our discretion: (i) ~~t~~The nature and type of media placement; (ii) ~~t~~The allocation (if any) among international, national, regional and local markets; and (iii) ~~t~~The nature and type of advertising copy, other materials and programs. We or an affiliate may be reimbursed from Marketing Fees for the reasonable direct and indirect costs, overhead or other expenses of providing marketing services. We are not obligated to supplement or advance funds available from collections of the Marketing Fees to pay for marketing activities. We do not promise that the Facility or you will benefit directly or proportionately from marketing activities.

**3.3.24.3.2** We may, at our discretion, implement special international, national, regional or local promotional programs (which may or may not include the Facility) as we deem appropriate and may make available to you (to use at your option) media advertising copy and other marketing materials for prices which reasonably cover the materials’ direct and indirect costs.

~~3.3.3~~3.4.3.3 We may, at our discretion, implement “group booking” programs created to encourage use of Chain Facilities for tours, conventions and the like, possibly for an additional fees.

3.4.4 **Purchasing and Other Services.** We may offer for a reasonable fee other optional assistance to you with purchasing items used at or in the Facility. Our affiliates may offer this service on our behalf. We may restrict the vendors authorized to sell proprietary or Mark-bearing items in order to control quality, provide for consistent service or obtain volume discounts. We will maintain and provide to you lists of suppliers approved to furnish Mark-bearing items, or whose products conform to System Standards.

3.54.5 **The System.** We will control and establish requirements for all aspects of the System. We may, in our discretion, change, delete from or add to the System, including any of the Marks or System Standards, in response to changing market conditions. We may, in our discretion, permit deviations from System Standards, based on local conditions and our assessment of the circumstances. We may, in our discretion, change the designation standards for the Chain and then require that you change the designation of the Facility and related presentation of that designation where it appears. We will not be liable to you for any expenses, losses or damages you may sustain as a result of any Mark addition, modification, substitution or discontinuation.

3.64.6 **Consultations and Standards Compliance.** We will assist you to understand your obligations under System Standards by telephone, mail, during any visits by our employees to the Facility, through the System Standards Manual, at training sessions and during conferences, meetings and visits we conduct. You may request an on-site day visit from our member operations representatives at our then-current daily rate. Such day visits shall consist of eight hours on-site, up to a maximum of three days. You must provide free lodging for our representative when he/she visits your Facility. We will provide telephone and mail consultation on Facility operation and marketing through our representatives. We will offer you access to any Internet website we may maintain to provide Chain members with information and services, subject to any rules, policies and procedures we establish for its use and access and to this Agreement. We may limit or deny access to any such website while you are in default under this Agreement.

3.74.7 **System Standards Manual and Other Publications.** We will specify System Standards in the System Standards Manual, policy statements or other publications which we may make available to you via our Chain intranet, in paper copies or through another medium. You will at all times comply with the System Standards. You acknowledge that the System Standards and the System Standards Manual are designed to protect the System and the Marks, and not to control the day-to-day operation of your business. We will provide you with access to the System Standards Manual promptly after we sign this Agreement. We will notify you via our Chain intranet or another medium of any System Standards Manual revisions and/or supplements as and when issued as well as any other publications and policy statements in effect for Chain members from time to time.

**4.8 Inspections and Audits.** We have the unlimited right to conduct unannounced quality assurance inspections (whether in person or via electronic means) of the Facility and its operations, records and Mark usage to test the Facility's compliance with System Standards and this Agreement, and the audits described in Section 3.6. We have the unlimited right to reinspect if the Facility does not achieve the score required on an inspection. We may impose a reinspection fee and will charge you for our costs as provided in Section 3.7. In connection with an audit, you will pay us any understated amount plus interest under Section 3.6. If the understated amount is three percent (3%) or more of the total amount owed during a six month period, you will also pay us an "Audit Fee" equal to the costs and expenses associated with the audit. Our inspections are solely for the purposes of checking compliance with System Standards.

**3.84.9 Revenue Management.** We offer revenue management services ("RMS") for additional fees. RMS is currently offered at three levels of service each of which offers a different frequency of inventory management, strategic positioning, future demand strategy and targeted promotions and packages. In addition to any required participation in RMS as described in Schedule D, we reserve the right to require you to participate in RMS at the same level as other similarly situated Chain Facilities (currently Diamond RMS) if the Facility does not have a dedicated, qualified revenue manager and (i) your hotel has 120 rooms or more, or (ii) we reasonably determine one is needed based on your hotel's occupancy or business mix. You are required to sign a Hotel Revenue Management Agreement for the applicable level of service as a requirement of your participation in RMS.

**4.5.Term.** The Term begins on the date that we insert in the preamble of this Agreement after we sign it (the "Effective Date") and expires at the end of the twentieth (20<sup>th</sup>) Membership Year. NEITHER PARTY HAS RENEWAL RIGHTS OR OPTIONS. However, if applicable law requires us to offer renewal rights, and you desire to renew this Agreement, then you will apply for a renewal membership agreement at least six months, but not more than nine months, prior to the expiration date, and subject to such applicable law, you will have to meet our then-current requirements for applicants seeking a membership agreement, which may include (i) executing our then-current form of membership and other agreements, which membership and other agreements may contain materially different terms and provisions (such as operating standards and fees) from those contained in this Agreement, (ii) executing a general release of us and our affiliates, in form and substance satisfactory to us, (iii) completing a property improvement plan, and (iv) paying a standard renewal fee, if then applicable.

**5.6.Application and Affiliation Fees.** You must pay us a non-refundable Application Fee of \$2,500, which shall be applied to your Affiliation Fee or Reaffiliation Fee. If your membership is for a new construction or conversion Facility, you must pay us an Affiliation Fee. If you are a transferee of an existing Facility or are renewing an existing membership, you will pay us a Reaffiliation Fee. The amount of your Affiliation Fee or Re-affiliation Fee is \$ \_\_\_\_\_, \$2,500 of which shall be applied from your Application Fee, and the remainder paid when you sign this Agreement and is fully earned and non-refundable when we sign this Agreement.

**6.7.Recurring Fees, Taxes and Interest.**

~~6.17.1~~ You will pay us certain “Recurring Fees” each month of the Term payable in U.S. dollars (or such other currency as we may direct if the Facility is outside the United States). The Recurring Fees described in this Section 7.1 are payable three days after the month in which they accrue, without billing or demand. Other Recurring Fees are payable at the time set forth in the System Standards. Recurring Fees include the following:

~~6.1.17.1.1~~ A “Membership Fee” equal to four percent (4%) of Gross Room Revenues of the Facility accruing during the calendar month, accrues from the earlier of the Opening Date or the date you identify the Facility as a Chain Facility or operate it under a Mark until the end of the Term.

~~6.1.27.1.2~~ A “Marketing Fee” as set forth in Schedule C, for advertising, marketing, training, and other related services and programs, accrues from the Opening Date until the end of the Term, including during reservation suspension periods. We collect and deposit these Fees from members, then disburse and administer the funds collected by means of a separate account or accounts. We may use the Marketing Fees we collect, in whole or in part, to reimburse our reasonable direct and indirect costs, overhead or other expenses of providing marketing, training and reservation services. You will also pay or reimburse us as described in Schedule C for “Additional Fees” such as commissions we pay to travel and other agents paid for certain reservation and marketing services to generate reservation at the Facility plus a reasonable service fee, fees levied to pay for reservations for the Facility originated or processed through the Global Distribution System, the Chain Websites and/or other reservation systems, distribution channels and networks, and fees for additional services and programs. We may charge Facilities using the Reservation System outside the United States for reservation service using a different formula. We may change, modify, add or delete the Marketing Fee and/or Additional Fees in accordance with Schedule C.

~~6.27.2~~ You will pay to us “~~T~~Faxes” equal to any federal, state or local sales, gross receipts, use, value added, excise or similar taxes (collectively “Taxes”) assessed against us on the Recurring Fees and basic charges by the jurisdictions where the Facility is located, but not including any income tax, franchise or other similar tax for the privilege of doing business by us in your State. You will pay Taxes to us when due.

~~6.37.3~~ “Interest” is payable when you receive our invoice on any past due amount payable to us under this Agreement at the rate of 1.5% per month or the maximum rate permitted by applicable law, whichever is less, accruing from the due date until the amount is paid.

~~6.47.4~~ If a ~~T~~ransfer occurs, your transferee or you will pay us our then current Application Fee and a “Reaffiliation Fee” equal to the Affiliation Fee we would then charge a new member for the Facility.

~~6.57.5~~ You will report and pay to us all Recurring Fees and other fees and charges on-line via our self-service ~~e~~Electronic ~~i~~nvoice ~~P~~resentation and ~~p~~ayment tool (“~~WynPay~~”) accessible through our Chain intranet. In the ~~WynPay~~-electronic on-line environment, payments can be made either through the electronic check payment channel or the credit card payment channel.

We reserve the right to change, from time to time, the technologies or other means for reporting and paying fees to us by amending the System Standards Manual.

## **7.8. Indemnifications.**

**7.18.1** Independent of your obligation to procure and maintain insurance, you will indemnify, defend and hold the Indemnitees harmless, to the fullest extent permitted by law, from and against all Losses and Expenses, incurred by any Indemnitee for any investigation, claim, action, suit, demand, administrative or alternative dispute resolution proceeding, relating to or arising out of any transaction, occurrence or service at, or involving the operation of, the Facility, any payment you make or fail to make to us, any breach or violation of any contract or any law, regulation or ruling by, any claim that the use of the Property Mark by us as provided for in this Agreement constitutes a violation of the proprietary rights of any third party, or any act, error or omission (active or passive) of, you, any party associated or affiliated with you or any of the owners, officers, directors, employees, agents or contractors of you or your affiliates, including when you are alleged or held to be the actual, apparent or ostensible agent of the Indemnitee, or the active or passive negligence of any Indemnitee is alleged or proven. You have no obligation to indemnify an Indemnitee for damages to compensate for property damage or personal injury if a court of competent jurisdiction makes a final decision not subject to further appeal that the Indemnitee engaged in willful misconduct or intentionally caused such property damage or bodily injury. This exclusion from the obligation to indemnify shall not, however, apply if the property damage or bodily injury resulted from the use of reasonable force by the Indemnitee to protect persons or property.

**7.28.2** You will respond promptly to any matter described in the preceding paragraph, and defend the Indemnitee. You will reimburse the Indemnitee for all costs of defending the matter, including reasonable attorneys' fees, incurred by the Indemnitee if your insurer or you do not assume defense of the Indemnitee promptly when requested, or separate counsel is appropriate, in our discretion, because of actual or potential conflicts of interest. We must approve any resolution or course of action in a matter that could directly or indirectly have any adverse effect on us or the Chain, or could serve as a precedent for other matters.

**7.38.3** We will indemnify, defend and hold you harmless, to the fullest extent permitted by law, from and against all Losses and Expenses incurred by you in any action or claim arising from your proper use of the System alleging that your use of the System and any property we license to you is an infringement of a third party's rights to any trade secret, patent, copyright, trademark, service mark or trade name. You will promptly notify us in writing when you become aware of any alleged infringement or an action is filed against you. You will cooperate with our defense and resolution of the claim. We may resolve the matter by obtaining a license of the property for you at our expense, or by requiring that you discontinue using the infringing property or modify your use to avoid infringing the rights of others.

## **8.9. Your Assignments, Transfers and Conveyances.**

**8.19.1 Transfer of the Facility.** This Agreement is personal to you (and your owners if you are an entity). We are relying on your experience, skill and financial resources (and that of your owners and the guarantors, if any) to sign this Agreement with you. You may finance the Facility and grant a lien, security interest or encumbrance on it (but not in this Agreement) without notice to us or our consent. If a Transfer is to occur, the transferee or you must comply with Section 9.3. Your Membership is subject to Termination when the Transfer occurs. The Membership is not transferable to your transferee, who has no right or authorization to use the System and the Marks when you transfer ownership or possession of the Facility. The transferee may not operate the Facility under the System, and you are responsible for performing the post-termination obligations in Section 13. You and your owners may, only with our prior written consent and after you comply with Sections 9.3 and 9.6, assign, pledge, transfer, delegate or grant a security interest in all or any of your rights, benefits and obligations under this Agreement, as security or otherwise. As a condition of our consent, if your interest in this Agreement is proposed as the collateral of a security interest, then we may require that you and your lender execute a comfort letter in the form described in our then-current disclosure document and that you pay our then-current fee for processing such a request. Transactions involving Equity Interests that are not Equity Transfers do not require our consent and are not Transfers.

**8.29.2 Financing Documents.** Neither you, nor any of your Equity Interest owners, shall represent in any proposed financing arrangement to any proposed lender or participant in a private or public investment offering that we or any of our affiliates are or shall be in any way responsible for your obligations or financial projections, if any, set forth in such financing arrangement or investment offering or that we or any of our affiliates are or shall be participating in such private or public investment offering. In addition, any proposed financing arrangement where the service mark “Trademark Collection” appears, or a reference to this Agreement appears, shall contain a disclaimer in bold face type substantially as follows: THE BORROWER IS A PARTY TO AN AGREEMENT WITH TMH WORLDWIDE, LLC TO OPERATE HOTELS USING THE SERVICE MARK “TRADEMARK COLLECTION.” NEITHER TMH WORLDWIDE, LLC NOR ITS AFFILIATES OWN ANY SUCH HOTELS OR ARE A PARTY TO THIS FINANCING AND HAVE NOT PROVIDED OR REVIEWED, AND ARE NOT RESPONSIBLE FOR, ANY DISCLOSURES OR OTHER INFORMATION SET FORTH HEREIN. Also, at least fifteen (15) days prior to closing such financing, you shall submit to us a written statement certifying that you have not misrepresented or overstated your relationship with us and our affiliates or your rights to use the Marks.

**8.39.3 Conditions.** We may condition and withhold our consent to a Transfer when required under this Section 9 until the transferee and you meet certain conditions; however, we will not unreasonably withhold, delay or condition our consent to a Transfer if the Facility is then financed under a program in which the United States Small Business Administration (“SBA”) guarantees the financing or its repayment. If a Transfer is to occur, the transferee (or you, if an Equity Transfer is involved) must first complete and submit our aApplication, qualify to be a member in our sole discretion, given the circumstances of the proposed Transfer, provide the same supporting documents as a new member applicant, pay the Application Fee and Reaffiliation Fees then in effect, sign the form of Membership Agreement we then offer in conversion transactions and agree to renovate the Facility as if it were an existing facility converting to the System, as we

reasonably determine. We will provide a Punch List of improvements we will require after the transferee's Application is submitted to us. We may require structural changes to the Facility if it no longer meets System Standards for entering conversion facilities or, in the alternative, condition our approval of the Transfer on limiting the transferee's term to the balance of your Term, or adding a right to terminate without cause exercisable by either party after a period of time has elapsed. Our consent to the transaction will not be effective until these conditions are satisfied. If we do not approve the Transfer, we may, in our sole discretion, allow you to terminate the Membership when you sell the Facility and pay us Liquidated Damages under Section 12.1 ~~at the same rate as you would pay if the termination occurred before the Opening Date.~~ Such payment would be due and payable when you transfer possession of the Facility. We must also receive general releases from you and each of your owners, and payment of all amounts then owed to us and our affiliates by you, your owners, your affiliates, the transferee, its owners and affiliates, under this Agreement or otherwise. Our consent to a Transfer is not a waiver of (i) any claims we may have against you; or (ii) our right to demand strict compliance from the Transferee with the terms of its agreement.

**8.49.4 Permitted Transferee Transactions.** ~~You Provided that you comply with this Section 9.4 you~~ may (i) transfer an Equity Interest to a Permitted Transferee or (ii) effect an Equity Transfer to a Permitted Transferee without obtaining our consent, renovating the Facility or paying a Reaffiliation Fee or Application Fee. No Transfer will be deemed to occur. You ~~also~~ must not be in default and you must comply with the application and notice procedures specified in Sections 9.3 and 9.6. Each Permitted Transferee must first agree in writing to be bound by this Agreement, or at our option, execute the Membership Agreement form then offered prospectivemembers. No transfer to a Permitted Transferee shall release a living transferor from liability under this Agreement or any guarantor under any guaranty of this Agreement. ~~You must comply with this Section if you transfer the Facility to a Permitted Transferee.~~ A transfer resulting from a death may occur even if you are in default under this Agreement.

**8.59.5 Attempted Transfers.** Any transaction requiring our consent under this Section 9 in which our consent is not first obtained will be void, as between you and us. You will continue to be liable for payment and performance of your obligations under this Agreement until we terminate this Agreement, all your financial obligations to us are paid and all System identification is removed from the Facility.

**8.69.6 Notice of Transfers.** You will give us at least 30 days prior written notice of any proposed Transfer or Permitted Transferee transaction. You will notify us when you sign a contract to Transfer the Facility and 10 days before you intend to close on the transfer of the Facility. We will respond to all requests for our consent and notices of Permitted Transferee transactions within a reasonable time not to exceed 30 days. You will notify us in writing within 30 days after a change in ownership of 25% or more of your Equity Interests that are not publicly held or that is not an Equity Transfer, or a change in the ownership of the Facility if you are not its owner. You will provide us with lists of the names, addresses, and ownership percentages of your owner(s) at our request.

**9.10. Our Assignments.** ~~We may transfer, assign, delegate or subcontract all or any part of our rights and duties under this Agreement, including by operation of law, without notice and without your consent. You are not the third party beneficiary of any contract with a third party to provide services to you under this Agreement. We may dissolve, terminate and wind up our business under applicable law but we will transfer the System and this Agreement to a party that will perform the licensor’s obligations and that will assume this Agreement in writing. We will have no obligations to you with respect to any assigned right or duty after you are notified that our transferee has assumed such rights or duties under this Agreement except those that arose before we assign this Agreement.~~ ~~We may assign, delegate or subcontract all or any part of our rights and duties under this Agreement, including by operation of law, without notice and without your consent. We will have no obligations to you with respect to any assigned right or duty after you are notified that our transferee has assumed such rights or duties under this Agreement except those that arose before we assign this Agreement.~~

**10.11. Default and Termination.**

**10.11.1 Default.** ~~In addition to the matters identified in Sections 3.1 and 3.6, you~~ You will be in default under this Agreement if (a) you do not pay us when a payment is due under this Agreement or under any other instrument, debt, agreement or account with us related to the Facility, (b) you do not perform any of your other obligations when this Agreement and the System Standards Manual require, or (c) if you otherwise breach this Agreement. If your default is not cured within ten days after you receive written notice from us that you have not filed your monthly report, paid us any amount that is due or breached your obligations regarding Confidential Information, or within 30 days after you receive written notice from us of any other default (except as noted below), then we may terminate this Agreement by written notice to you, under Section 11.2. We will not exercise our right to terminate if you have completely cured your default during the time allowed for cure, or until any waiting period required by law has elapsed. In the case of a default resulting from the Facility’s failure to meet Quality Standards as measured by a quality assurance inspection, if you have acted diligently to cure the default but cannot do so, and the default does not relate to health or safety, we may, in our discretion, enter into an improvement agreement with you provided you request such an agreement within 30 days after receiving notice of the failing inspection. If we have entered into an improvement agreement, you must cure the default within the time period specified in the improvement agreement which shall not exceed 90 days after the failed inspection. We may terminate this Agreement and any or all rights granted hereunder if you do not timely perform that improvement agreement.

**10.211.2 Termination.** We may terminate this Agreement effective when we send written notice to you or such later date as required by law or as stated in the default notice, when (1) you do not cure a default as provided in Section 11.1 or we are authorized to terminate under Schedule D due to your failure to perform your Improvement Obligation, (2) you discontinue operating the Facility as a “Trademark Collection” or “Trademark Collection by Wyndham”, (3) you do or perform, directly or indirectly, any act or failure to act that in our reasonable judgment is or could be injurious or prejudicial to the goodwill associated with the Marks or the System, (4) you lose ownership possession or the right to possession of the Facility or otherwise lose the

right to conduct the franchiselicensed business at the Location, (5) you (or any guarantor) suffer the termination of another membership agreement with us or one of our affiliates, (6) you intentionally maintain false books and records or submit a materially false report to us, (7) you (or any guarantor) generally fail to pay debts as they come due in the ordinary course of business, (8) you, any guarantor or any of your owners or agents misstated to us or omitted to tell us a material fact to obtain or maintain this Agreement with us, (9) you receive two or more notices of default from us in any one year period (whether or not you cure the defaults), (10) a violation of Section 9 occurs, or a Transfer occurs before the relicensing process is completed, (11) you or any of your Equity Interest owners contest in court the ownership or right to franchise or license all or any part of the System or the validity of any of the Marks, (12) you, any guarantor or the Facility is subject to any voluntary or involuntary bankruptcy, liquidation, dissolution, receivership, assignment, reorganization, moratorium, composition or a similar action or proceeding that is not dismissed within 60 days after its filing, ~~or~~ (13) you maintain or operate the Facility in a manner that endangers the health or safety of the Facility's guests, (14) if a threat to public health or safety exists at the Facility and we reasonably determine that an immediate shut down of the Facility to be necessary to avoid substantial risk of liability or goodwill, (15) you disclose any Confidential Information in violation of this Agreement.

### **10.311.3 Casualty and Condemnation.**

**10.3.11.3.1** You will notify us promptly after the Facility suffers a Casualty that prevents you from operating in the normal course of business, with less than 75% of guest rooms available. You will give us information on the availability of guest rooms and the Facility's ability to honor advance reservations. You will tell us in writing within 60 days after the Casualty whether or not you will restore, rebuild and refurbish the Facility to conform to System Standards and its condition prior to the Casualty. This restoration will be completed within 180 days after the Casualty. You may decide within the 60 days after the Casualty, and if we do not hear from you, we will assume that you have decided, to terminate this Agreement, effective as of the date of your notice or 60 days after the Casualty, whichever comes first. If this Agreement so terminates, you will pay all amounts accrued prior to ~~T~~ermination and follow the post-termination requirements in Section 13. You will not be obligated to pay Liquidated Damages if the Facility will no longer be used as ~~an extended stay ora~~ transient guest lodging facility for 3 years after the Casualty.

**10.3.211.3.2** You will notify us in writing within 10 days after you receive notice of any proposed Condemnation of the Facility, and within 10 days after receiving notice of the Condemnation date. This Agreement will terminate on the date the Facility or a substantial portion is conveyed to or taken over by the condemning authority but you will be liable for ~~the~~ Condemnation Payments ~~payments~~ set forth in Section 12.2.

**10.411.4 Our Other Remedies.** We may suspend the Facility from the Reservation System for any default or failure to pay or perform under this Agreement or any other written agreement with us relating to the Facility, discontinue reservation referrals to the Facility for the duration of such suspension, and may divert previously made reservations to other Chain Facilities after giving notice of non-performance, non-payment or default. All Marketing Fees

~~and related Reservation System user~~ fees accrue during the suspension period. Reservation service will be restored after you have fully cured any and all defaults and failures to pay and perform. We may charge you, and you must pay as a condition precedent to restoration of reservation service, a Reconnection Fee specified on Schedule C to reimburse us for our costs associated with service suspension and restoration. We may deduct points under our quality assurance inspection program for your failure to comply with this Agreement or System Standards. ~~We may omit the Facility from any paper or electronic directory of Chain Facilities that we issue.~~ We may also suspend or terminate any temporary or other fee reductions we may have agreed to in this Agreement and/or any stipulations in Section 18 below, and/or cease to provide any operational support until you address any failure to perform under this Agreement. You agree that our exercise of any rights in this Section will not constitute an actual or constructive **T**ermination of this Agreement. All such remedies are cumulative and not in lieu of any other rights or remedies we may have under this Agreement. If we exercise our right not to terminate this Agreement but to implement such suspension and/or removal, we reserve the right at any time after the appropriate cure period under the written notice has lapsed, to, upon written notice to you, terminate this Agreement without giving you any additional corrective or cure period (subject to applicable law). You recognize that any use of the System not in accord with this Agreement will cause us irreparable harm for which there is no adequate remedy at law, entitling us to injunctive and other relief, without the need for posting any bond. We may litigate to collect amounts due under this Agreement without first issuing a default or **T**ermination notice. Our consent or approval may be withheld if needed while you are in default under this Agreement or may be conditioned on the cure of all your defaults. Once a **T**ermination or expiration date for this Agreement has been established in accordance with the provisions of this Agreement, we may cease accepting reservations through the Reservation System for any person(s) seeking to make a reservation for a stay on any date including or following the **T**ermination or expiration of this Agreement.

### **10.511.5 Your Remedies.**

~~10.5.111.5.1~~ If our approval or consent is required under this Agreement and we fail to do not issue our approval or consent ~~as and when required under this Agreement~~ within a reasonable time, but in any event of not less than 30 days after we receive all of the information we request, and you believe our ~~refusal-failure~~ to approve or consent is wrongful, then you may bring a legal action against us to compel us to issue our approval or consent to the obligation. To the extent permitted by applicable law, this action shall be your exclusive remedy.

~~10.5.211.5.2~~ You (and your owners and guarantors) waive, to the fullest extent permitted by law, any right to, or claim for, any punitive or exemplary damages against us and against any affiliates, owners, employees or agents of us, and agree that in the event of a dispute, you will be limited to the recovery of any actual damages sustained and any equitable relief to which you might be entitled.

### **11.12. Liquidated Damages.**

~~11.12.1~~ **Generally.**—I If we terminate this Agreement under Section 11.2, or you terminate this Agreement (except under Section 11.3 or as a result of our default which we do not

~~cure within a reasonable time after written notice), you will pay us within 10 days following the date of Termination, as Liquidated Damages, an amount equal to the average monthly accrued Recurring Fees during the immediately preceding 12 full calendar months multiplied by 36 (or the number of months remaining in the unexpired Term (the "Ending Period") at the date of Termination, whichever is less). If the Facility has been open for fewer than 12 months, then the amount shall be the average monthly Recurring Fees since the Opening Date multiplied by 36. You will also pay any applicable Taxes assessed on such payment and Interest calculated under Section 7.3 accruing from 10 days after the date of termination. Before the Ending Period, Liquidated Damages will not be less than the product of \$3,000 multiplied by the number of guest rooms that you are authorized to operate under Schedule B of this Agreement as of the Termination. In the event that we authorize you to reduce the number of rooms at the Facility after the Opening Date, then we reserve the right to charge Liquidated Damages for those rooms on a per-room basis, either at the time they are removed from the Facility's inventory or at Termination. If we terminate this Agreement under Schedule D before the Opening Date, then you will pay us, within 10 days after you receive our notice of termination, Liquidated Damages in an amount equal to \$1,500 per guest room described on Schedule B. If any valid, applicable law or regulation of a competent governmental authority having jurisdiction over this Agreement limits your ability to pay, and our ability to receive, the Liquidated Damages you are obligated to pay hereunder, you shall be liable to us for any and all damages which we incur, now or in the future, as a result of your breach of this Agreement. Liquidated Damages are paid in place of our claims for lost future Recurring Fees under this Agreement. Our right to receive other amounts due under this Agreement is not affected.~~

~~f we terminate this Agreement under Section 11.2, or you terminate this Agreement (except under Section 11.3 or as a result of our default which we do not cure within a reasonable time after written notice), you will pay us within 30 days following the date of termination, as Liquidated Damages, an amount equal to the sum of accrued Membership and Marketing Fees during the immediately preceding 24 full calendar months (or the number of months remaining in the unexpired Term (the "Ending Period") at the date of termination, whichever is less). If the Facility has been open for fewer than 24 months, then the amount shall be the average monthly Membership and Marketing Fees since the Opening Date multiplied by 24. You will also pay any applicable Taxes assessed on such payment and Interest calculated under Section 7.3 accruing from 30 days after the date of termination. Before the Ending Period, Liquidated Damages will not be less than the product of \$2,000 multiplied by the number of guest rooms that we authorized you to operate under Schedule B of this Agreement, regardless of any room reduction. If we terminate this Agreement under Schedule D before the Opening Date, you will pay us within 10 days after you receive our notice of termination Liquidated Damages equal to one half the amount payable for termination under Section 11.2. If any valid, applicable law or regulation of a competent governmental authority having jurisdiction over this Agreement limits your ability to pay, and our ability to receive, the Liquidated Damages you are obligated to pay hereunder, you shall be liable to us for any and all damages which we incur, now or in the future, as a result of your breach of this Agreement. Liquidated Damages are paid in place of our claims for lost future Recurring Fees under this Agreement. Our right to receive other amounts due under this Agreement is not affected.~~

**11.212.2 Condemnation Payments.** In the event a Condemnation is to occur, you will pay us the fees set forth in Section 7 for a period of one year after we receive the initial notice of

condemnation described in Section 11.3.2, or until the Condemnation occurs, whichever is longer. You will pay us Liquidated Damages equal to the average daily Membership and Marketing Fees for the one year period preceding the date of your condemnation notice to us multiplied by the number of days remaining in the one year notice period if the Condemnation is completed before the one year notice period expires. This payment will be made within 30 days after Condemnation is completed (when you close the Facility or you deliver it to the condemning authority). You will pay no Liquidated Damages if the Condemnation is completed after the one year notice period expires, but the fees set forth in Section 7 must be paid when due until Condemnation is completed.

**12.13. Your Duties At and After Termination.** When a Termination occurs for any reason whatsoever:

**13.1 System Usage Ceases.** You must comply with the following “de-identification” obligations. You will immediately stop using the System to operate and identify the Facility. You will remove all signage and other items bearing any Marks and follow the other steps detailed in the System Standards Manual or other brand directives for changing the identification of the Facility. You will promptly paint over or remove the Facility’s distinctive System trade dress, color schemes and architectural features. You shall not identify the Facility with a confusingly similar mark or name, or use the same colors as the System trade dress for signage, printed materials and painted surfaces. You will cease all Internet marketing using any Marks to identify the Facility.

**13.1.1 Cancel Assumed Name Certificate.** You shall take such action as may be necessary to cancel any assumed name or equivalent registration which contains the name “Wingate by Wyndham” or any variation thereof or any other Mark. You shall provide us with evidence to our satisfaction of compliance with this obligation within thirty (30) days after termination or expiration of this Agreement.

**12.13.2 Other Duties.** You will pay all amounts owed to us under this Agreement within 10 days after Termination. We may immediately remove the Facility from the Reservation System and divert reservations as authorized in Section 11.4. We may notify third parties that the Facility is no longer associated with the Chain. We may also, to the extent permitted by applicable law, and without prior notice enter the Facility and any other parcels, remove software (including archive and back-up copies) for accessing the Reservation System, all copies of the System Standards Manual, Confidential Information, equipment and all other personal property of ours. If you have not completed your de-identification obligations to our satisfaction, we may paint over or remove and purchase for \$10.00, all or part of any interior or exterior Mark-bearing signage (or signage face plates), including billboards, whether or not located at the Facility, that you have not removed or obliterated within five days after Termination. You will promptly pay or reimburse us for our cost of removing such items, net of the \$10.00 purchase price for signage. We will exercise reasonable care in removing or painting over signage. We will have no obligation or liability to restore the Facility to its condition prior to removing the signage. You will transfer to us any domain names you own that include any material portion of the Marks.

**12.213.3 Reservations.** The Facility will honor any advance reservations, including group bookings, made for the Facility prior to **T**ermination at the rates and on the terms established when the reservations are made and pay when due all related travel agent commissions. You acknowledge and agree that once a **T**ermination or expiration date for this Agreement has been established in accordance with the provisions of this Agreement, we may stop accepting reservations through the Reservation System for any person(s) seeking to make a reservation for a stay on any date on or after the **T**ermination or expiration of this Agreement. In addition, when this Agreement terminates or expires for any reason, we have the right to contact those individuals or entities who have reserved rooms with you through the ~~CRS-Central Reservation System~~ to inform them that your lodging facility is no longer part of the System. We further have the right to inform those guests of other facilities within the System that are near your Facility in the event that the guests prefer to change their reservations. You agree that the exercise of our rights under this Section will not constitute an interference with your contractual or business relationship.

**12.313.4 Survival of Certain Provisions.** Sections 3.6 (as to audits, for 2 years after **T**ermination), the first two sentences of 3.11, 7 (as to amounts accruing through **T**ermination), 8, 11.3.2, 11.4, 12, 13, 15, 16 and 17 survive **T**ermination of this Agreement. Additionally, all covenants, obligations and agreements of yours which by their terms or by implication are to be performed after the termination or expiration of the Term, shall survive such **T**ermination or expiration.

**13.14. Your Representations and Warranties.** You expressly represent and warrant to us as follows:

**13.14.1 Quiet Enjoyment and Financing.** You own, or will own prior to commencing improvement, or lease, the Location and the Facility. You will be entitled to possession of the Location and the Facility during the entire Term without restrictions that would interfere with your performance under this Agreement, subject to the reasonable requirements of any financing secured by the Facility. You have, when you sign this Agreement, and will maintain during the Term, adequate financial liquidity and financial resources to perform your obligations under this Agreement. If you are an entity, all of your owners, including any subsequent person or entity that becomes an owner at any time after the Effective Date, shall sign our then-current form of personal guaranty guaranteeing all of your obligations under this Agreement, unless expressly waived by us in our sole discretion.

**13.214.2 This Transaction.** You and the persons signing this Agreement for you have full power and authority and have been duly authorized, to enter into and perform or cause performance of your obligations under this Agreement. You have obtained all necessary approvals of your owners, Board of Directors and lenders. No executory membership, franchise, license, or affiliation agreement for the Facility exists other than this Agreement. Your execution, delivery and performance of this Agreement will not violate, create a default under or breach of any charter, bylaws, agreement or other contract, license, permit, indebtedness, certificate, order, decree or security instrument to which you or any of your principal owners is a party or is subject or to which the Facility is subject. Neither you nor the Facility is the subject of

any current or pending merger, sale, dissolution, receivership, bankruptcy, foreclosure, reorganization, insolvency, or similar action or proceeding on the date you execute this Agreement and was not within the three years preceding such date, except as disclosed in the Application. You will submit to us the documents about the Facility, you, your owners and your finances that we request in the Membership Application (or after our review of your initial submissions) before or within 30 days after you sign this Agreement. You represent and warrant to us that the information you provided in your Application is true, correct and accurate. To the best of your knowledge, neither you, your owners (if you are an entity), your officers, directors or employees or anyone else affiliated or associated with you, whether by common ownership, by contract, or otherwise, has been designated as, or is, a terrorist, a “Specially Designated National” or a “Blocked Person” under U.S. Executive Order 13224, in lists published by the U.S. Department of the Treasury’s Office of Foreign Assets Control, or otherwise.

**13.314.3 No Misrepresentations or Implied Covenants.** All written information you submit to us about the Facility, you, your owners, any guarantor, or the finances of any such person or entity, was or will be at the time delivered and when you sign this Agreement, true, accurate and complete, and such information contains no misrepresentation of a material fact, and does not omit any material fact necessary to make the information disclosed not misleading under the circumstances. There are no express or implied covenants or warranties, oral or written, between we and you except as expressly stated in this Agreement.

#### **14.15. Proprietary Rights.**

**14.1.115.1.1 Marks and System.** You will not acquire any interest in or right to use the System or Marks except under this Agreement. You will not apply for governmental registration of the Marks, or use the Marks or our corporate name in your legal name, but you may use a Mark for an assumed business or trade name filing. You agree ~~to~~ (i) to execute any documents we request to obtain or maintain protection for the Marks; (ii) use the Marks only in connection with the operation of the Facility as permitted by the System Standards; and (iii) that your unauthorized use of the Marks shall constitute both an infringement of our rights and a material breach of your obligations under this Agreement. You shall not, and shall not assist other to, challenge or otherwise contest the validity or ownership of the System or Marks.

**14.1.215.1.2 Property Mark.** You represent and warrant to us that you are the owner of all right, title, and interest in and to the Property Mark, or you otherwise have the right to use and license others to use the Property Mark. You hereby grant to us, our parent, subsidiaries and affiliates, or our designee, a non-exclusive, limited, revocable license to use the Property Mark to market, promote, and advertise the Facility and to display and use the Property Mark in connection with the System and the Marks during the Term.

**14.215.2 Inurements.** All present and future distinguishing characteristics, improvements and additions to or associated with the System by us, you or others, and all present and future service marks, trademarks, copyrights, service mark and trademark registrations used and to be used as part of the System, and the associated good will, shall be our property and will inure to our benefit.

**14.315.3 Other Locations and Systems.** We and our affiliates each reserve the right to own, (including through a joint venture or otherwise) in whole or in part, ~~and~~ manage, operate, use, lease, finance, sublease, franchise, license (as franchisor or franchisee), or provide services to or joint venture (i) distinctive separate lodging or food and beverage marks and other intellectual property which are not part of the System, and to enter into separate agreements with you or others (for separate charges) for use of any such other marks or proprietary rights, (ii) other lodging, food and beverage facilities, or businesses, under the System utilizing modified System Standards, and (iii) a Chain Facility at or for any location other than the Location. a Chain Facility at or for any location outside the Protected Territory. You acknowledge that we are affiliated with or in the future may become affiliated with other lodging providers or franchise, license or membership systems that operate under names or marks other than the Marks. We and our affiliates may use or benefit from common hardware, software, communications equipment and services and administrative systems for reservations, franchise application procedures or committees, marketing and advertising programs, personnel, central purchasing, Approved Supplier lists, franchise sales personnel (or independent franchise sales representatives), ~~ete.~~

**14.415.4 Confidential Information.** You will take all appropriate actions to preserve the confidentiality of all Confidential Information. Access to Confidential Information should be limited to persons who need the Confidential Information to perform their jobs and are subject to your general policy on maintaining confidentiality as a condition of employment or who have first signed a confidentiality agreement. You will not permit copying of Confidential Information (including, as to computer software, any translation, decompiling, decoding, modification or other alteration of the source code of such software). You will use Confidential Information only for the Facility and to perform under this Agreement. Upon ~~T~~ermination (or earlier, as we may request), you shall return to us all originals and copies of the System Standards Manual, policy statements and Confidential Information “fixed in any tangible medium of expression,” within the meaning of the U.S. Copyright Act, as amended. Your obligations under this subsection commence when you sign this Agreement and continue for trade secrets (including computer software we license to you) as long as they remain secret and for other Confidential Information, for as long as we continue to use the information in confidence, even if edited or revised, plus three years. We will respond promptly and in good faith to your inquiry about continued protection of any Confidential Information.

**14.515.5 Litigation.** You will promptly notify us of (i) any adverse or infringing uses of the Marks (or names or symbols confusingly similar), Confidential Information or other System intellectual property, and (ii) ~~or~~ any threatened or pending litigation related to the System against (or naming as a party) you or us of which you become aware. We alone ~~will handle disputes with third parties concerning~~ have the right to control any proceeding or litigation involving use of all or any part of the System, including settlement. You will cooperate with our efforts to resolve these disputes. We need not initiate suit against imitators or infringers who do not have a material adverse impact on the Facility, or any other suit or proceeding to enforce or protect the System in a matter we do not believe to be material. We also have the right to keep all sums obtained in settlement or as a damages award in any proceeding or litigation without any

obligation to share any portion of the settlement sums or damages award with you. You will cooperate with our efforts to resolve these disputes.

**14.615.6 The Internet and other Distribution Channels.** You may use the Internet to market the Facility subject to this Agreement and System Standards. You shall not use, license or register any domain name, universal resource locator, or other means of identifying you or the Facility that uses a Mmark or any image or language confusingly similar to a Mark except as otherwise expressly permitted by the System Standards Manual or with our written consent. You will assign to us any such identification at our request without compensation or consideration. You may not purchase any key words for paid search or other electronic marketing that utilizes any Mark without our written consent.. You must make available through the Reservation System and the Chain Website all rates you offer directly to the general public or indirectly via Internet marketing arrangements with third parties. You agree to participate in our Central Commission Payment Program and to reimburse us for any fees or commissions we pay to intermediaries and retailers on your behalf or for Chain Facilities to participate in their programs. You must participate in the Chain's best available rate on the Internet guarantee or successor program. The content you provide us or use yourself for any Internet or distribution marketing materials must be true, correct and accurate, and you will notify us in writing promptly when any correction to the content becomes necessary. You shall promptly modify at our request the content of any Internet or distribution marketing materials for the Facility you use, authorize, display or provide to conform to System Standards. Any use of the Marks and other elements of the System on the Internet inures to our benefit under Section 15.2.

#### **15.16. Relationship of Parties.**

**15.16.1 Independence.** You are an independent contractor. You are not our legal representative or agent, and you have no power to obligate us for any purpose whatsoever. We and you have a business relationship based entirely on and circumscribed by this Agreement. No partnership, joint venture, agency, fiduciary or employment relationship is intended or created by reason of this Agreement. You will exercise full and complete control over and have full responsibility for your contracts, daily operations, labor relations, employment practices and policies, including, but not limited to, the recruitment, selection, hiring, disciplining, firing, compensation, work rules and schedules of your employees.

**15.216.2 Joint Status.** If you are comprised of two or more persons or entities (notwithstanding any agreement, arrangement or understanding between or among such persons or entities) the rights, privileges and benefits of this Agreement may only be exercised and enjoyed jointly. The liabilities and responsibilities under this Agreement will be the joint and several obligations of all such persons or entities.

#### **16.17. Legal Matters.**

**16.17.1 Partial Invalidity.** If all or any part of a provision of this Agreement violates the law of your state (if it applies), such provision or part will not be given effect. If all or any part of a provision of this Agreement is declared invalid or unenforceable, for any reason, or is not

given effect by reason of the prior sentence, the remainder of the Agreement shall not be affected. However, if in our judgment the invalidity or ineffectiveness of such provision or part substantially impairs the value of this Agreement to us, then we may at any time terminate this Agreement by written notice to you without penalty or compensation owed by either party.

**16.217.2 Waivers, Modifications and Approvals.** If we allow you to deviate from this Agreement, we may insist on strict compliance at any time after written notice. Our silence or inaction will not be or establish a waiver, consent, course of dealing, implied modification or estoppel. All modifications, waivers, approvals and consents of or under this Agreement by us must be in writing and signed by our authorized representative to be effective. We may unilaterally revise Schedule C when this Agreement so permits.

**16.317.3 Notices.** Notices will be effective if in writing and delivered (i) by facsimile transmission with confirmation original sent by first class mail, postage prepaid, (ii) by delivery service, with proof of delivery, (iii) by first class, prepaid certified or registered mail, return receipt requested, (iv) by electronic mail, posting of the notice on our Chain intranet site or by a similar technology; or (v) by such other means as to result in actual or constructive receipt by the person or office holder designated below, to the appropriate party at its address stated below or as it may otherwise designated by notice. You consent to receive electronic mail from us. Notices shall be deemed given on the date delivered or date of attempted delivery, if refused.

TMH Worldwide, LLC:

Our address: 22 Sylvan Way, Parsippany, New Jersey 07054-0278

Attention: Executive Vice President - Contracts Administration; Fax No. (973) 753-7254

Your name: \_\_\_\_\_, Your address: \_\_\_\_\_, Attention: \_\_\_\_\_; Your fax No.: \_\_\_\_\_; Your e-mail address: \_\_\_\_\_

**16.417.4 Remedies.** Remedies specified in this Agreement are cumulative and do not exclude any remedies available at law or in equity. The non-prevailing party will pay all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party to enforce this Agreement or collect amounts owed under this Agreement.

**16.517.5 Miscellaneous.** This Agreement is exclusively for the benefit of the parties. There are no third party beneficiaries. No agreement between us and anyone else is for your benefit. The section headings in this Agreement are for convenience of reference only.

**16.617.6 Choice of Law; Venue; Dispute Resolution.**

**16.617.6.1** This Agreement will be governed by and construed under the laws of the State of New Jersey, except for its conflicts of law principles. The New Jersey Franchise Practices Act will not apply to any Facility located outside the State of New Jersey.

**16.6217.6.2** The parties shall attempt in good faith to resolve any dispute concerning this Agreement or the parties' relationship promptly through negotiation between authorized

representatives. If these efforts are not successful, either party may attempt to resolve the dispute through non-binding mediation. Either party may request mediation which shall be conducted by a mutually acceptable and neutral third party organization. If the parties cannot resolve the dispute through negotiation or mediation, or choose not to negotiate or mediate, either party may pursue litigation.

~~16.6.3~~**17.6.3** You consent and waive your objection to the non-exclusive personal jurisdiction of and venue in the New Jersey state courts situated in Morris County, New Jersey and the United States District Court for the District of New Jersey for all cases and controversies under this Agreement or between we and you.

~~16.6.4~~**17.6.4** **WAIVER OF JURY TRIAL. THE PARTIES WAIVE THE RIGHT TO A JURY TRIAL IN ANY ACTION RELATED TO THIS AGREEMENT OR THE RELATIONSHIP BETWEEN TMH WORLDWIDE, LLC, THE MEMBER, ANY GUARANTOR, AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS.**

~~16.6.5~~**17.6.5** Any judicial proceeding directly or indirectly arising from or relating to this Agreement shall be considered unique as to its facts and may not be brought as a class action. You and each of the owners of your Equity Interests waive any right to proceed against us by way of class action.

~~16.7~~**17.7** **Special Acknowledgments. You acknowledge the following statements to be true and correct as of the date you sign this Agreement, and to be binding on you.**

~~16.7.1~~**17.7.1** You have read our disclosure document for prospective members (“FDD”) and independently evaluated and investigated the risks of investing in the hotel industry generally and purchasing this membership/franchise specifically, including such factors as current and potential market conditions, owning a franchise and various competitive factors.

~~16.7.2~~**17.7.2** You have received our FDD at least 14 days before signing this Agreement or paying the Affiliation Fee to us.

~~16.7.3~~**17.7.3** Neither we nor any person acting on our behalf has made any oral or written representation or promise to you on which you are relying to enter into this Agreement that is not written in this Agreement or in the FDD. You release any claim against us or our agents based on any oral or written representation or promise not stated in this Agreement or in the FDD.

~~16.7.4~~**17.7.4** This Agreement, together with the exhibits and schedules attached, is the entire agreement superseding all previous oral and written representations, agreements and understandings of the parties about the Facility and the Membership/Franchise other than representations set forth in the FDD. Notwithstanding the foregoing, no provision in any franchise or membership agreement, or any related agreement, is intended to disclaim the express representations made in the FDD.

**~~16.7.5~~17.7.5** You acknowledge that no salesperson has made any promise or provided any information to you about actual or projected sales, revenues, income, profits or expenses from the Facility except as stated in Item 19 of the FDD or in a writing that is attached to this Agreement and signed by us.

**~~16.7.6~~17.7.6** You understand that the relationship contemplated by this Agreement is an arms' length, commercial business relationship in which each party acts in its own interest.

**~~16.8~~17.8** **Force Majeure.** Neither you nor we shall be liable for loss or damage or deemed to be in breach of this Agreement if the failure to perform obligations results from: (a) windstorms, rains, floods, earthquakes, typhoons, mudslides or other similar natural causes; (b) fires, strikes, embargoes, war, acts of terrorism or riot; (c) legal restrictions that prohibit or prevent performance; or (d) any other similar event or cause beyond the control of the party affected. Any delay resulting from any of such causes shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable, so long as a remedy is continuously and diligently sought by the affected party, except that no such cause shall excuse payment of amounts owed at the time of such occurrence or payment of Recurring Fees and other amounts due to us subsequent to such occurrence other than a governmental or judicial order prohibiting such payments.

**~~16.9~~17.9** **No Right to Offset.** You acknowledge and agree that you will not withhold or offset any liquidated or unliquidated amounts, damages or other monies allegedly due you by us against any Recurring Fees or any other fees due us under this Agreement.

[Signatures follow on next page]

IN WITNESS WHEREOF, the parties have executed this Agreement on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and agree to be bound by the terms and conditions of this Agreement as of the Effective Date.

**WE:**

TMH WORLDWIDE, LLC:

By: \_\_\_\_\_  
Executive Vice President

**YOU**, as member:

By: \_\_\_\_\_

## APPENDIX A

### DEFINITIONS

Additional Fees means the fees charged under Section 7.1.2 other than the Marketing Fee.

Affiliation Fee means the fee you are to pay for signing this Agreement as stated in Section 6, if the Agreement is for a new construction or conversion membership.

Agreement means this Membership Agreement.

Application Fee means the fee you pay when you submit your Application under Section 6.

Approved Plans means your plans and specifications for constructing or improving the Facility initially or after opening, as approved by us under Schedule D.

Casualty means destruction or significant damage to the Facility by act of God or other event beyond your reasonable anticipation and control.

Chain means the network of Chain Facilities.

Chain Facility means a lodging facility we own, lease, manage, operate or authorize another party to operate using the System and secondarily identified by the Marks.

Chain Websites means any current or future consumer or business websites, mobile websites or mobile applications that we or our affiliates develop for booking reservations for and/or providing information about Chain Facilities, and any future equivalent technology.

Condemnation means the taking of the Facility for public use by a government or public agency legally authorized to do so, permanently or temporarily, or the taking of such a substantial portion of the Facility that continued operation in accordance with the System Standards, or with adequate parking facilities, is commercially impractical, or if the Facility or a substantial portion is sold to the condemning authority in lieu of condemnation.

Conference Fee means the fee we charge for your attendance at a conference for Chain Facilities and their members when and if held.

Confidential Information means any trade secrets we own or protect and other **proprietary** information not generally known to the lodging industry including confidential portions of the System Standards Manual or information we otherwise impart to you and your representatives in confidence. Confidential Information includes all other system standards manuals and documentation, including those on the subjects of employee relations, finance and administration, field operation, purchasing and marketing, the property management system software and other applications software.

~~Directory means any general purpose directory we issue, whether printed, web-based, or issued in another medium, which may list the names and addresses of Chain Facilities in the United States, and at our discretion, other System facilities located outside the United States, Canada and Mexico.~~

Effective Date means the date we insert in the Preamble of this Agreement after we sign it.

Equity Interests shall include, without limitation, all forms of equity ownership of you, including voting stock interests, partnership interests, limited liability company membership or ownership interests, joint and tenancy interests, the proprietorship interest, trust beneficiary interests and all options, warrants, and instruments convertible into such other equity interests.

Equity Transfer means any transaction or series of transactions in which your owners or you sell, assign, transfer, convey, pledge, or suffer or permit the transfer or assignment of, any percentage of your Equity Interests that will result in a change in control of you to persons other than those disclosed on Schedule B, as in effect prior to the transaction. Unless there are contractual modifications to your owners' rights, an Equity Transfer of a corporation or limited liability company occurs when either majority voting rights or beneficial ownership of more than 50% of the Equity Interests changes in one transaction or a series of transactions. An Equity Transfer of a partnership occurs when a newly admitted partner will be the managing, sole or controlling general partner, directly or indirectly through a change in control of the Equity Interests of an entity general partner in one transaction or a series of transactions. An Equity Transfer of a trust occurs when either a new trustee with sole investment power is substituted for an existing trustee, or a majority of the beneficiaries convey their beneficial interests to persons other than the beneficiaries existing on the Effective Date in one transaction or a series of transactions. An Equity Transfer does not occur when the Equity Interest ownership among the owners of Equity Interests on the Effective Date changes without the admission of new Equity Interest owners. An Equity Transfer occurs when you merge, consolidate or issue additional Equity Interests in a transaction which would have the effect of diluting the voting rights or beneficial ownership of your owners' combined Equity Interests in the surviving entity to less than a majority in one transaction or a series of transactions.

Facility means the Location, together with all improvements, buildings, common areas, structures, appurtenances, facilities, entry/exit rights, parking, amenities, FF&E and related rights, privileges and properties existing or to be constructed at the Location on or after the Effective Date.

FF&E means furniture, fixtures and equipment.

Food and Beverage means any restaurant, catering, bar/lounge, entertainment, room service, retail food or beverage operation, continental breakfast, food or beverage concessions and similar services offered at the Facility.

Gross Room Revenues means gross revenues attributable to or payable for rentals of guest (sleeping) rooms at the Facility, including all credit transactions, whether or not collected,

guaranteed no-show revenue, net of chargebacks from credit card issuers, any proceeds from any business interruption or similar insurance applicable to the loss of revenues due to the non-availability of guest rooms and any miscellaneous fees charged to all guests regardless of the accounting treatment of such fees. Excluded from Gross Room Revenues are separate charges to guests for Food and Beverage (including room service); actual telephone charges for calls made from a guest room; key forfeitures and entertainment (including Internet fees and commissions); vending machine receipts; and federal, state and local sales, occupancy and use taxes. Gross Room Revenues is further described in System Standards.

Guest Information means any names, email addresses, phone numbers, mailing addresses and other information about guests and customers of the Facility, including without limitation stay information, that either you or we or a person acting on behalf of you, us, or both you and us, receives from or on behalf of the other or any guest or customer of the Facility or any other third party.

Improvement Obligation means your obligation to either (i) renovate and upgrade the Facility, or (ii) construct and complete the Facility, in accordance with the Approved Plans and System Standards, as described in Schedule D.

Indemnitees means us, our direct and indirect parent, subsidiary and ~~sister corporations~~affiliate entities, and the respective officers, directors, shareholders, employees, agents and contractors, and the successors, assigns, personal representatives, heirs and legatees of all such persons or entities.

Liquidated Damages means the amounts payable under Section 12, set by the parties because actual damages will be difficult or impossible to ascertain on the Effective Date and the amount is a reasonable pre-estimate of the damages that will be incurred and is not a penalty.

Location means the parcel of land situated at <<Facility\_Address>>, as more fully described in Schedule A.

Losses and Expenses means (x) all payments or obligations to make payments either (i) to or for third party claimants by any and all Indemnitees, including guest refunds, or (ii) incurred by any and all Indemnitees to investigate, respond to or defend a matter, including without limitation investigation and trial charges, costs and expenses, attorneys' fees, experts' fees, court costs, settlement amounts, judgments and costs of collection; and (y) the "Returned Check Fee" we then specify in the System Standards Manual (\$2100.00 on the Effective Date) if the drawee dishonors any check that you submit to us.

Loyalty Program Charge means the fee you pay us under Section 3.4.4 and Schedule C for a frequent guest rewards program or other special marketing programs that we may create or undertake and require participation by Chain Facilities.

Maintenance Standards means the standards specified from time to time in the System Standards Manual for repair, refurbishment and replacement of FF&E, finishes, decor, and other capital items and design materials in Chain Facilities.

Marketing Fee means the fee you pay to us under Section 7.1.2 and Schedule C, as amended, for advertising, marketing, training and other services.

Marks means, collectively (i) the service marks associated with the System published in the System Standards Manual from time to time including, but not limited to, the name, design and logo for “Trademark Collection” and other marks (U.S. Reg. Nos.: 5,325,869; 5,308,444; 5,541,864; 5,619,226; and 5,308,447) and (ii) trademarks, trade names, trade dress, logos and derivations, and associated good will and related intellectual property interests.

Marks Standards means standards specified in the System Standards Manual for interior and exterior Mark-bearing signage, advertising materials, china, linens, utensils, glassware, uniforms, stationery, supplies, and other items, and the use of such items at the Facility or elsewhere.

Membership means the non-exclusive license to operate the type of Chain Facility described in Schedule B only at the Location, using the System and the Mark we designate in Section 1.

Membership Fee means the monthly fee you pay to us for use of the System under Section 7.1.1. “Membership Fees” means the aggregate of all amounts owed as a Membership Fee.

Membership Year means:

(i) *If the Opening Date occurs on the first day of a month:* the period beginning on the Opening Date and ending on the day immediately preceding the first anniversary of the Opening Date, and each subsequent one year period; or

(ii) *If the Opening Date does not occur on the first day of a month:* the period beginning on the Opening Date and ending on the first anniversary of the last day of the month in which the Opening Date occurs, and each subsequent one year period.

Minor Renovation means the repairs, refurbishing, repainting, and other redecorating of the interior, exterior, guest rooms, public areas and grounds of the Facility and replacements of FF&E we may require you to perform under Section 3.14.

Minor Renovation Ceiling Amount means \$3,000.00 per guest room.

Minor Renovation Notice means the written notice from us to you specifying the Minor Renovation to be performed and the dates for commencement and completion given under Section 3.14.

Opening Date has the meaning specified in Schedule D.

Operations Standards means standards specified in the System Standards Manual for cleanliness, housekeeping, general maintenance, repairs, concession types, food and beverage service, vending machines, uniforms, staffing, employee training, guest services, guest comfort and other aspects of lodging operations.

Permitted Transferee means (i) any entity, natural person(s) or trust receiving from the personal representative of an owner any or all of the owner's Equity Interests upon the death of the owner, if no consideration is paid by the transferee or (ii) the spouse or adult issue of the transferor, if the Equity Interest transfer is accomplished without consideration or payment, or (iii) any natural person or trust receiving an Equity Interest if the transfer is from a guardian or conservator appointed for an incapacitated or incompetent transferor.

Punch List ~~means the list of upgrades, updates, improvements, repairs, repainting, refurbishing and replacements we prepare that are required to be completed pursuant to this Agreement.~~ ~~means the list of upgrades and improvements attached as part of Schedule D, which you are required to complete under Section 3.1 and Schedule D.~~

Reaffiliation Fee means the fee your transferee pays to us when a Transfer occurs or the fee you pay to us if you are renewing an existing membership.

Reconnection Fee means the fee you pay us when we ~~suspend~~ restore the Central Reservation System service after such service has been suspended because you default under this Agreement or for any other reason, in the amount specified in Schedule C.

Recurring Fees means fees paid to us on a periodic basis, including without limitation, Membership Fees, Marketing Fees, and other reservation fees and charges as stated in Section 7.

Reinspection Fee means the fee you must pay to us under Section 3.7 if you do not complete your Punch List on time, fail any inspection or do not cooperate with our inspector or inspection System Standards.

Reservation System or "Central Reservation System" means the back end technology platform and applications used by us to accept, store and/or communicate reservations for Chain Facilities. The Reservation System is separate from, but enables, the booking of reservations for Chain Facilities through various distribution channels such as the Chain Websites, the GDS and other distribution channels.

Rooms Addition Fee means the fee we charge you for adding guest rooms to the Facility.

System means the comprehensive system for providing guest lodging facility services under the Marks as we specify which at present includes only the following: (a) the Marks; (b) other intellectual property, including Confidential Information, System Standards Manual and know-how; (c) marketing, advertising, publicity and other promotional materials and programs; (d) System Standards; (e) training programs and materials; (f) quality assurance inspection and scoring programs; and (g) the Reservation System.

System Standards means the standards for participating in the System published in the System Standards Manual, or elsewhere, including but not limited to design standards, Marks standards, marketing standards, operations standards, technology standards and maintenance standards and any other standards, policies, rules and procedures we promulgate about System operation and usage.

System Standards Manual means the Standards of Operation and Design Manual and any other manual or written directive or other communication we issue or distribute specifying the System Standards.

Taxes means the amounts payable under Section 7.2 of this Agreement.

Technology Standards means standards specified in the System Standards Manual for local and long distance telephone communications services, telephone, telecopy and other communications systems, point of sale terminals and computer hardware and software for various applications, including, but not limited to, front desk, rooms management, records maintenance, marketing data, accounting, budgeting and interfaces with the Reservation System to be maintained at the Chain Facilities.

Term means the period of time during which this Agreement shall be in effect, as stated in Section 5.

Termination means a termination of this Agreement.

Transfer means (1) an Equity Transfer, (2) you assign, pledge, transfer, delegate or grant a security interest in all or any of your rights, benefits and obligations under this Agreement, as security or otherwise without our consent as specified in Section 9, (3) you assign (other than as collateral security for financing the Facility) your leasehold interest in (if any), lease or sublease all or any part of the Facility to any third party, (4) you engage in the sale, conveyance, transfer, or donation of your right, title and interest in and to the Facility, (5) your lender or secured party forecloses on or takes possession of your interest in the Facility, directly or indirectly, or (6) a receiver or trustee is appointed for the Facility or your assets, including the Facility. A Transfer does not occur when you pledge or encumber the Facility to finance its acquisition or improvement, you refinance it, or you engage in a Permitted Transferee transaction.

“You” and “Your” means and refers to the party named as member identified in the first paragraph of this Agreement and its Permitted Transferees.

“We”, “Our” and “Us” means and refers to TMH Worldwide, LLC, a Delaware limited liability company, its successors and assigns.

**SCHEDULE A**

**(Legal Description of Facility)**



**TMH WORLDWIDE, LLC**  
**SCHEDULE C**  
**April ~~2019~~2020**

**I. Marketing Fee**

The Marketing Fee is 2.5% of Gross Room Revenues. The Marketing Fee is subject to change for all Chain Facilities, and new fees and charges may be assessed for new services.

**II. Additional Fees**

**A. Loyalty Program Fees**

We charge a Loyalty Program Charge for your participation in the Wyndham Rewards or successor guest loyalty program. The Loyalty Program Charge is 5% of any amounts on which members of the Loyalty Program earns points or other program currency at the Facility as defined in the Front Desk Guide or any other program rules, which are System Standards. We will proactively match and award members with points or other program currency they earn at the Facility even if they do not present their Wyndham Rewards membership number upon check-in. You will be billed monthly in arrears for points or other program currency awarded to members during the preceding month. If you do not achieve a certain number of Wyndham Rewards valid enrollments, you must pay us a Retraining Fee of up to \$400 per month as described in the Front Desk Guide. If you do not process a member's points in a timely manner and we must resolve the issue with the member, we will charge you a Loyalty Member Services Administration Fee as described in the Front Desk Guide.

**B. Customer Care Fee**

We will contact you if we receive any guest complaint about you or the Facility, and you will be responsible for resolving the complaint to the satisfaction of the guest. We may also contact you, at our discretion, if we become aware of any other complaints about the Facility including complaints which are posted on third-party travel websites, distribution channels, blogs and social networks, or other forums to which you do not respond. If you do not respond to and resolve any complaint to the guest's satisfaction within three business days after we refer it to you, we will charge you a "Customer Care Fee" of \$195.00, plus the costs we incur to settle the matter with the guest. The Customer Care Fee is intended only to reimburse us for the costs of complaint handling and is not intended as penalties or liquidated damages. All guest complaints remain subject to indemnification under this Agreement.

**C. Best Rate Guarantee Program**

You must (i) make available to us through the Central Reservation System and the Chain Websites room rates for the Facility equivalent to those you offer to the general public directly or indirectly via third parties that you authorize to offer and sell reservations for the Facility's guest rooms, and (ii) participate in the Chain's Best Rate Guarantee Program according to its published

requirements. If we, or a guest, identifies a publicly available rate for the Facility that is lower than the rate that you have provided to us for the same date, then we may charge you a Processing Fee, currently \$195, to reimburse us for our administrative charges to process each discrepancy.

~~You must (i) make available through the Central Reservation System and the Chain Websites room rates equivalent to those you offer to the general public directly or indirectly via third parties that you authorize to offer and sell reservations for the Facility's guest rooms and (ii) participate in the Chain's Best Rate Guarantee Program according to its published requirements. We will also charge you a Processing Fee, currently \$60 to reimburse us for our administrative charges of handling the complaint.~~

#### **D. Reconnection Fee**

If we suspend Central Reservation System Service because of your default under this Agreement or for any other reason, then you must pay us the Reconnection Fee set forth in the System Standards before we restore service. Currently, the Reconnection Fee is \$4,000.

#### **E. Other Fees, Commissions and Charges**

You will pay us a fee, as applicable, for reservations for your Facility from certain distribution partners processed through various reservation channels. "GDS Fees" are assessed for qualified reservations processed through any global distribution system ("GDS") or through any Internet website or other booking source powered by a GDS. "Internet Booking Fees" are assessed for qualified reservations processed through an Internet website connected through an alternate distribution system. "Third Party Channel Fees" are assessed for qualified reservations coming from our partners directly or indirectly to our distribution platform. We will establish the amount of the GDS, Internet Booking Fees, and Third Party Channel Fees from time to time based on the fees these channels charge us and/or our own costs (including overhead) for providing these services. Some of our distribution partners may charge a commission on reservations you receive through these reservation channels and, if we pay such commission on your behalf, you will reimburse us and pay our service charge of 1.5% of commissionable revenue. Upon written notice to you, we may alter, change, modify, remove or add new fees as existing reservation channels are modified or partners are added to existing channels or new reservation channels are established.

You will also pay commissions for (a) reservations booked by "Agents" and/or (b) qualified reservations consumed by members of affinity groups and organizations that participate in our Member Benefits program. You must pay our service charge of 1.5% of commissionable revenue, if applicable. "Agents" include, but are not limited to, travel agents, on-line travel and referral websites, travel consortia, travel management companies, and global sales agents, as well as digital media linking to Chain websites and unique call center numbers purchased by the pay-for-performance program ("PFP"). These commission payments may go to the Agent, affinity group or organization in whole or a portion of the payment may be allocated to various marketing activities and/or to our Global Sales Organization to offset its administrative and overhead costs for supporting the Member Benefit Program and other programs that generate room nights at

Chain Facilities, or, in the case of the PFP program, to fund purchases of additional digital media directing consumers to Chain websites and unique call center numbers.

Under our Wyndham Referral Rewards Program, Chain Facilities may receive leads from other Chain Facilities, facilities of our affiliates and employees of our parent company or its predecessor. For this business, we charge you a referral commission of 10% of the commissionable revenue on qualifying reservations. When the referring party is a Chain Facility or facility of an affiliate 7% of the referral commission is paid to the referring facility; and when the referring party is an employee of our parent company or its predecessor, 6% of the referral commission is paid to the employee. The remaining 3% and 4%, as applicable, is distributed to our Global Sales Organization to offset its administrative and overhead costs for supporting the Wyndham Referral Rewards Program.

We may change, modify or delete Additional Fees for existing services and programs and add new Additional Fees for new services, programs and distribution channels at any time upon not less than thirty (30) days' written notice.

**SCHEDULE D**  
**ADDENDUM FOR CONVERSION FACILITIES**

This Addendum applies if you are converting an existing guest lodging facility to a Chain Facility.

**1. YOUR IMPROVEMENT OBLIGATION.**

**1.1 Generally.** You must select and acquire the Location and acquire, equip and supply the Facility in accordance with this Agreement and System Standards. You must provide us with proof that you own or lease the Facility by the earlier to occur of (a) 30 days after the Effective Date or (b) the Opening Date. You must maintain control of the Facility consistent with such documentation during the Term. You must begin renovation of the Facility no later than 30 days after the Effective Date. Time is of the essence for the completion of the Improvement Obligation. We may, however, in our sole discretion, grant one or more extensions of time to perform any phase of the Improvement Obligation. The grant of an extension will not waive any other default existing at the time the extension is granted. All renovations must comply with System Standards, any Approved Plans, this Agreement and the Punch List. Your general contractor or you must carry the insurance required under this Agreement during renovation.

**1.2 Pre-Opening Improvements.** You must complete all renovations specified as “prior to opening” on the Punch List before we consider the Facility to be ready to open under the System. The deadline for completing the pre-opening phase of conversion and the renovations shall be as specified on any Punch List attached to this Agreement, but is otherwise 90 days from the Effective Date. You must continue renovation and improvement of the Facility after the Opening Date if the Punch List so requires. We may, in our sole discretion, terminate this Agreement by giving written notice to you (subject to applicable law) if (1) you do not commence or complete the pre-opening improvements of the Facility by the dates specified on the Punch List or otherwise and you fail to do so within five days after we send you written notice of default, or (2) you prematurely identify the Facility as a Chain Facility or begin operation under the System in violation of this Schedule and you fail to cease operating and/or identifying the Facility under the Marks and System within five days after we send you written notice of default. If we choose to grant an extension of any deadlines, including the Facility’s Opening Date, you must pay an extension fee of \$10,000. The extension fee is due within ten days of the Facility’s Opening Date. You must also pay us the Reinspection Fee described in Section 3.7 if you fail to complete the Improvement Obligation by the deadline established in the Punch List or otherwise and our representatives must return to the Facility to inspect it. In limited circumstances, you may identify the Facility as a Chain Facility prior to the Opening Date, or commence operation of the Facility under a Mark and using the System, only after first obtaining our **prior written** approval. If you identify the Facility as a Chain Facility or operate the Facility under a Mark before the Opening Date without our express written consent, then in addition to our remedies under Section 11, you will begin paying the Membership Fee to us, as specified in Section 7.1, from the date you identify or operate the Facility using the Mark. We may delay the Opening Date until you pay the Membership Fee accruing under this Section.

### 1.3 Improvement Plans.

(a) Generally. You will create plans and specifications for the work described in Section 1.1 of this Schedule D (based upon System Standards and this Agreement) if we so request and submit them for our approval before starting improvement of the Location. We will not unreasonably withhold or delay our approval, which is intended only to test compliance with System Standards, and not to detect errors or omissions in the work of your architects, engineers, contractors or the like, who must exercise their own independent professional care, skill and diligence in the design and renovation of your Facility. Our review does not cover technical, architectural or engineering factors relating to the existing structure at the Location, the validity of conversion given the existing structure, or compliance with federal, state or local laws, regulations or code requirements, for which your architect is responsible. You must allow for 10 days of our review each time you submit ~~p~~Plans to us. We will not be liable to your lenders, contractors, employees, guests, others, or you on account of our review or approval of your plans, drawings or specifications, or our inspection of the Facility before, during or after the renovation. Any material variation from the Approved Plans requires our prior written approval. Approved Plans must incorporate design elements as set forth in System Standards. You may purchase furniture, fixtures, equipment and other supplies that you may need during renovation of the Facility through our affiliate, Worldwide Sourcing Solutions, Inc.'s "Approved Supplier" program. We may offer other optional architectural and design services for a separate fee. You will promptly provide us with copies of permits, job progress reports, and other information as we may reasonably request.

(b) Deviation from Approved Plans. We may inspect the work while in progress without prior notice. We may direct you to change the work in progress if it deviates from the Approved Plans or System Standards and may terminate this Agreement if you fail to comply with any such direction. If you encounter unexpected issues with demolition, renovation, reconstruction or refurbishment of the existing structure which make continuation of the project using the Approved Plans not commercially ~~in~~feasible, you must notify us immediately and provide a complete written report on the matter, including any proposal to modify the Approved Plans you believe is appropriate together with your estimate of the projected costs of meeting the Approved Plans. We will evaluate the report, your proposal and the situation and respond within 30 days to any request to vary the Approved Plans, or provide suggestions for resolving the issues in such a manner as will be acceptable to us. Neither party shall terminate this Agreement unless and until such notice is given and the 30 day period shall have elapsed without agreement on modifying the Approved Plans. If either party then decides to terminate this Agreement, you will pay, if then not paid, and we will retain, the full Initial Fee, ~~as~~ Provided that we determine in our reasonable discretion that continuation of the project using the Approved Plans or any modification of the Approved Plans is not commercially feasible then Liquidated Damages shall not be owed.

## 2. ONBOARDING AND MANDATORY SUPPORT SERVICES

**2.1 Onboarding Services.** ~~We will provide full operational resources, including training and support, for property opening.~~ We will provide training through various on-line courses on

subjects such as quality assurance, housekeeping, preventative maintenance, customer service, and the ~~RFP~~request for proposal process. A member of our field team will also assist with property operations topics including Systems Standards and use of the Chain's intranet site. These onboarding services are provided as part of the Initial Fee required in Section 6.

**2.2 Mandatory Support Services.** We will arrange for our preferred photography provider to take digital photographs of the Facility in accordance with System Standards for posting on our Chain Websites, third party travel websites and various marketing media and such photographs will be owned by us. You will pay a fee of \$2,750 for the required photo package. We will provide training for your general manager as set forth in Section 4.1 of the Agreement if he/she attends the training by the deadline set forth in Section 4.1. The tuition for this mandatory training is currently \$2,~~000~~250.

### **3. DEFINITIONS.**

Opening Date means the date on which we authorize you to open the Facility for business identified by the Marks and using the System.

**SCHEDULE D**  
**ADDENDUM FOR CONVERSION FACILITIES**

**[Punch List Attached]**

**SCHEDULE D**  
**ADDENDUM FOR NEW CONSTRUCTION FACILITIES**

This Addendum applies if you are constructing a new Chain Facility.

**1. YOUR IMPROVEMENT OBLIGATION.**

**1.1 Generally.** You must select and acquire the Location and acquire, design, construct, equip and supply the Facility in accordance with this Agreement and System Standards. You must provide us with proof that you own or a ground lease of the Location by the earlier to occur of (a) 30 days after the Effective Date or (b) the Opening Date. You must maintain control of the Facility consistent with such documentation during the Term. You must commence construction of the Facility no later than 60 days after the Effective Date, and complete construction and properly deliver the Certification as described in subsection 1.3 of this Schedule no later than 14 months from the Effective Date. Construction commences, for purposes of this Schedule, when all of the following occur: (x) ~~w~~We approve a site plan, completed working drawings and detail specifications for the Facility; (y) ~~g~~Governmental permits are issued to commence foundation construction; and (z) ~~y~~You commence pouring concrete for building footings. Time is of the essence for the completion of the Improvement Obligation. We may, however, in our sole discretion, grant extensions of time to perform any phase of the Improvement Obligation. The grant of an extension will not waive any other default existing at the time the extension is granted. All construction must comply with System Standards, any Approved Plans, and this Agreement. Your general contractor or you must carry the insurance required under this Agreement during construction.

**1.2 Pre-Opening.** We may, in our sole discretion, terminate this Agreement by written notice to you (subject to applicable law) if you do not meet the deadlines above. If we choose to grant an extension of any deadlines, including the Facility's Opening Date, you must pay an extension fee of \$10,000. The extension fee is due within ten days of the Facility's Opening Date. You must also pay us the Reinspection Fee described in Section 3.7 if the Facility fails the inspection you designate as the completion inspection, does not meet our Standards or conform to the Approved Plans, and our representatives must return to the Facility to inspect it. In limited circumstances, you may identify the Facility as a Chain Facility prior to the Opening Date, or commence operation of the Facility under a Mark and using the System, only after first obtaining our prior written approval, but in no event before the Facility passes our completion inspection, at which we determine that the Facility as built meets our System Standards, and we receive from you and your architect or contractor the Certification described in subsection 1.3 below. If you identify the Facility as a Chain Facility or operate the Facility under a Mark before the Opening Date without our express written consent, then in addition to our remedies under Section 11, you will begin paying the Membership Fee to us, as specified in Section 7.1, from the date you identify or operate the Facility using the Mark. We may delay the Opening Date until you pay the Membership Fee accruing under this Section.

**1.3 ADA Certification.** Your architect must certify to us and to you that the Facility’s plans and specifications comply with the design requirements of the Americans with Disabilities Act (“ADA”), the Department of Justice Standards for Accessible Design (“ADA Standards”) under ~~that Act~~ the ADA, and all codes that apply using the ADA Certification Form for New Construction (Pre-Construction) in Exhibit A. Before we authorize you to open the Facility, you must complete and submit the ADA Certification Form for New Construction (Post-Construction) attached as Exhibit B (Exhibits A and B, collectively, the “Certification”). You must complete the Certification per their instructions and submit to us only after they have been signed by your general contractor, your architect of record or a consulting architect you hire for the Certification. If you cannot obtain the signature of the contractor or such an architect for the Certification, you must sign the Franchisee’s Certification of Compliance on the signature page of the Certification. If we determine that the Certification has not been properly completed, or if we have actual knowledge (not constructive or implied knowledge) that the signatures on the Certification are false or fraudulent, we will return the Certification to you with written notice that we will not permit you to open the Facility for business under the System until we receive a properly completed Certification. We may terminate this Agreement under Section 11 if you do not submit the Certification properly completed before you open the Facility under the System, you fail to meet the deadline for completing the Facility specified in this Schedule because you do not submit a properly completed Certification, or if you submit a false or fraudulent Certification. We will delay the Opening Date until you submit the properly completed Certification. We shall not be liable to you or any third party if the Certification is improperly completed or the Facility is not built or operated in compliance with ADA.

### **1.4 Improvement Plans.**

(a) Generally. Your architect and you will create construction documents (including a project manual and working drawings) for construction of the Facility based upon System Standards and this Agreement so that it conforms as closely as possible to System Standards, and then submit them for our approval before starting improvement of the Location. We will not unreasonably withhold or delay our approval, which is intended only to test compliance with System Standards, and not to detect errors or omissions in the work of your architects, engineers, contractors or the like, who must exercise their own independent professional care, skill and diligence in the design and construction of your Facility. Our review does not cover technical, architectural or engineering factors relating to the Location, or compliance with federal, state or local laws, regulations or code requirements, including without limitation, compliance with the ADA, for which your architect is responsible. You must allow for 10 days of review each time you submit pPlans to us. We will not be liable to your lenders, contractors, employees, guests, others, or you on account of our review or approval of your plans, drawings or specifications, or our inspection of the Facility, before during or after construction or any subsequent renovation. Any material violation from the Approved Plans requires our prior written approval. Approved Plans must incorporate design elements as set forth in System Standards. You may purchase furniture, fixtures, equipment and other supplies that you may need during construction of the Facility through our affiliate, Worldwide Sourcing Solutions, Inc.’s “Approved Supplier” program. We may offer other optional architectural and design services for a separate fee. You

will promptly provide us with copies of permits, job progress reports, and other information as we may reasonably request.

(b) Construction Costs. Before we authorize you to open the Facility, we may request that you furnish us with information about the construction costs of the Facility by providing a copy of your contractor's application for payment on AIA form G702 and G703 or other documentation reasonably acceptable to us. We will use this information, along with similar information obtained from other members, to more accurately project the cost of developing new construction Facilities in the United States, which we are required to disclose in our Franchise Disclosure Document for new members. We will not disclose outside of our organization or our consultants any information you give to us in a manner which would enable other members or persons to determine your costs for constructing your Facility.

(c) Deviation from Approved Plans. We may inspect the work while in progress without prior notice. We may direct you to change the work in progress if it deviates from the Approved Plans or System Standards and may terminate this Agreement if you fail to comply with any such direction. If you encounter unexpected issues with demolition, renovation, reconstruction or refurbishment of the existing structure which make continuation of the project using the Approved Plans commercially infeasible, you must notify us immediately and provide a complete written report on the matter, including any proposal to modify the Approved Plans you believe is appropriate together with your estimate of the projected costs of meeting the Approved Plans. We will evaluate the report, your proposal and the situation and respond within 30 days to any request to vary the Approved Plans, or provide suggestions for resolving the issues in such a manner as will be acceptable to us. Neither party shall terminate this Agreement unless and until such notice is given and the 30 day period shall have elapsed without agreement on modifying the Approved Plans. If either party then decides to terminate this Agreement, you will pay, if then not paid, and we will retain, the full Initial Fee, ~~as~~ Provided that we determine in our reasonable discretion that continuation of the project using the Approved Plans or any modification of the Approved Plans is not commercially feasible then Liquidated Damages shall not be owed.

## 2. ONBOARDING AND MANDATORY SUPPORT SERVICES AND FEES.

**2.1 Onboarding Services.** ~~We will provide full operational resources, including training and support, for property opening.~~ We will provide training through various on-line courses on subjects such as quality assurance, housekeeping, preventative maintenance, customer service, and the RFP-request for proposal process. A member of our field team will also assist with property operations topics including Systems Standards and use of the Chain's intranet site. These onboarding services are provided as part of the Initial Fee required in Section 6.

**2.2 Start-Up Platinum Revenue Management Program.** We will provide Start-up Platinum Revenue Management Services for a period of ~~four~~ six months beginning 30 days from the Opening Date, in accordance with the Revenue Management Policies and Best Practices ("RM Policies") included in System Standards. Services include scheduled communication and

accessibility, bi-weekly meetings, STR review and evaluation, rate and inventory maintenance, strategic positioning, future demand strategy and targeted promotions and packages. You will establish the reference room rate for the Facility upon which all other rates are based (“Rate of the Day”) and retain ultimate control over all revenue management decisions. By participating in the Start-Up Platinum Revenue Management Program, you authorize us to (i) access your room rates, inventory and other Facility information in our Reservation System, your Facility’s property management system and food and beverage system (if applicable), and any extranet you have with an on-line travel agency or similar distribution company, and (ii) authorize us to make adjustments to the Facility’s rates, inventory and restrictions in order to comply with the RM Policies without advance notice to you. We will not, however, change the Rate of the Day without authorization from you. In addition, you may modify or reverse any change we make by notifying us, providing it is consistent with the RM Policies. You must designate a primary Facility representative who shall have the authority to make revenue management decisions for the Facility and a secondary representative who shall exercise such authority in the absence of the primary representative. We may communicate with these representatives by telephone, e-mail or in another manner, and may rely on any communication which we believe, in good faith, is from them. The cost of Start-Up Platinum Revenue Management is included in your Initial Fee. After the conclusion of the Start-Up Platinum Revenue Management Program, you may, at your option, participate in Revenue Management Services at any service level we offer at the then-current rate for such service. ~~Facilities with 200 guest rooms or more must participate in RMS at the service level we require.~~

**2.3 Mandatory Services and Fees.** We will arrange for our preferred photography provider to take digital photographs of the Facility in accordance with System Standards for posting on our Chain Websites, third party travel websites and various marketing media and such photographs will be owned by us. You will pay \$2,750 for the standard photo package. We will provide training for your general manager as set forth in Section 4.1 of the Agreement if he/she attends the training by the deadline set forth in Section 4.1. The tuition for this mandatory training is currently \$2,000250. We will provide training for your staff at your Facility. This training is conducted on site at your Facility and depending on your room count will last between 1- 5 days and cost between \$750 - \$3,750.

### **3. DEFINITIONS.**

Opening Date means the date on which we authorize you to open the Facility for business identified by the Marks and using the System.

## INSTRUCTIONS

New construction projects whose last application for a building permit or permit extension is certified to be complete by a state, county, or local government (or, in those jurisdictions where the government does not certify completion of applications, the date when the last application for a building permit or permit extension is received by the state, county, or local government) on or after March 15, 2012 must comply with the ADA standards published on September 15, 2010 (28 C.F.R. Part 36, subpart D, and 2004 ADA Standards at 36 C.F.R. Part 1191, Appendices B and D). Thus, for projects that fall within this category, owners must use Exhibit A at the pre-construction stage and Exhibit B at the post-construction stage.

**EXHIBIT A**

**ADA CERTIFICATION FORM FOR NEW CONSTRUCTION  
(PRE-CONSTRUCTION)**

In connection with the project identified as: \_\_\_\_\_

To the best of my professional knowledge, information and belief, I hereby state the following:

1. I have professional experience applying the requirements of the Americans with Disabilities Act (ADA) and the 2010 Standards at 28 C.F.R. Part 36, subpart D, and 2004 ADA Standards at 36 C.F.R. Part 1191, Appendices B and D.
2. I have reviewed the plans (including architectural interior design plans if they are available prior to construction).
3. The plans comply with the 2010 Standards.
4. I have specifically determined that the plans provide:
  - a. The number of accessible car and van-accessible parking spaces required by the 2010 Standards (if parking facilities are to be provided);
  - b. The number of accessible rooms with features for guests with mobility disabilities (including the required number of accessible rooms with roll-in showers) and the number of accessible rooms with communications features for guests who are deaf or hard of hearing required under 2010 Standards.
  - c. An inventory of accessible rooms with mobility features and communications features for guests with hearing impairments that is dispersed among the various room types offered to the public as required by the 2010 Standards.

Sign: \_\_\_\_\_

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

Firm: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT B**

**ADA CERTIFICATION FORM FOR NEW CONSTRUCTION  
(POST-CONSTRUCTION)**

1. I have professional experience applying the requirements of the Americans with Disabilities Act (ADA) and the 2010 Standards at 28 C.F.R. Part 36, subpart D, and 2004 ADA Standards at 36 C.F.R. Part 1191, Appendices B and D.
2. I have inspected all areas of the hotel that are open to the public (including accessible guest rooms), and they comply with the 2010 Standards.
3. I have specifically determined that the hotel, as constructed, provides:
  - a. The number of accessible car and van-accessible parking spaces required by the 2010 Standards (if parking facilities are to be provided);
  - b. The number of accessible rooms with features for guests with mobility disabilities (including the required number of accessible rooms with roll-in showers) and the number of accessible rooms with communications features for guests who are deaf or hard of hearing required under the 2010 Standards.
  - c. An inventory of accessible rooms with mobility features and communications features for guests with hearing impairments that is dispersed among the various room types offered to the public as required by the 2010 Standards.

Sign: \_\_\_\_\_

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

Firm: \_\_\_\_\_

Date: \_\_\_\_\_

**SCHEDULE D**  
**ADDENDUM FOR TRANSFER FACILITIES**

This Addendum applies if you are the transferee of an existing Chain Facility.

**1. TRANSFER AND ASSUMPTION.**

**1.1** This Addendum is for the transfer of an existing Chain Facility at the Location first granted to \_\_\_\_\_, (“Prior Member”) in a Membership Agreement with us dated \_\_\_\_\_ (the “Prior Agreement”). You assume and obligate yourself to perform any and all of the obligations (financial and otherwise) of the Prior Member under the Prior Agreement that are not paid or performed as of the Effective Date, including without limitation, the obligation to pay any unpaid Membership Fees, Marketing Fees or other amounts due us and to correct any uncured defaults, except as may be expressly superseded by this Agreement. You acknowledge that we may require you or your staff to complete training on the use of a property management or similar computer system and software for accessing the Reservation System and pay our then-current fees for such training.

**2. YOUR IMPROVEMENT OBLIGATION.**

**2.1 Generally.** You must acquire the Location and acquire, equip and supply the Facility in accordance with this Agreement and System Standards. You must provide us with proof that you own or lease the Facility by the Opening Date. You must maintain control of the Facility consistent with such documentation during the Term. You must begin renovation of the Facility no later than 30 days after the Effective Date. Time is of the essence for the completion of the Improvement Obligation. We may, however, in our sole discretion, grant one or more extensions of time to perform any phase of the Improvement Obligation. The grant of an extension will not waive any other default existing at the time the extension is granted. All renovations must comply with System Standards, any Approved Plans, this Agreement and the Punch List. Your general contractor or you must carry the insurance required under this Agreement during renovation. The deadline for completing the Improvement Obligation shall be as specified on any Punch List attached to this Agreement, but is otherwise 90 days from the Effective Date. We may, in our sole discretion, terminate this Agreement by giving written notice to you (subject to applicable law) if you do not commence or complete the improvement of the Facility by the dates specified in the Punch List or otherwise and you fail to do so within five days after we send you written notice of default. You must also pay us the Reinspection Fee described in Section 3.7 if you fail to complete any Improvement Obligation by the deadline established in the Punch List or otherwise and our representatives must return to the Facility to inspect it.

**[If the Facility was in quality assurance default immediately before the Effective Date of the transfer, add the following to the end of Section 2.1:]**

You and we acknowledge that Prior Member received one or more notices of default from us before the Effective Date regarding the Facility’s failure to meet System Standards. Prior Member did not cure the default before the Effective Date. We have approved the application you submitted to us and have entered into this Agreement in reliance upon your promise and

undertaking to complete the Improvement Obligation, including the renovations, operational changes, repairs, refurbishment, replacements, and capital improvements necessary to conform the Facility to System Standards as detailed on the Punch List attached to this Agreement. You must erect a barrier or place signage acceptable to us to exclude Chain guests from any areas under renovation or construction while completing the Improvement Obligation. We may require you to remove, cease display or use, or completely obscure all signage and other items bearing any Marks until the Facility meets System Standards in our discretion. We may, in our sole discretion, terminate this Agreement by giving written notice to you (subject to applicable law) if you continue to display the Marks and identify the Facility as a Chain Facility five days after we send you written notice that you have failed to complete the Improvement Obligation by the date specified in the Punch List or otherwise.

**2.2 Improvement Plans.** You will create plans and specifications for the work described in Section 2.1 of this Schedule D (based upon the System Standards and this Agreement) if we so request and submit them for our approval before starting improvement of the Location. We will not unreasonably withhold or delay our approval, which is intended only to test compliance with System Standards, and not to detect errors or omissions in the work of your architects, engineers, contractors or the like, who must exercise their own independent professional care, skill and diligence in the design and renovation of your Facility. Our review does not cover technical, architectural or engineering factors relating to the existing structure at the Location, or compliance with federal, state or local laws, regulations or code requirements, for which your architect is responsible. You must allow for 10 days of our review each time you submit ~~p~~Plans to us. We will not be liable to your lenders, contractors, employees, guests, others or you on account of our review or approval of your plans, drawings or specifications, or our inspection of the Facility before, during or after renovation or construction. Any material variation from the Approved Plans requires our prior written approval. Approved Plans must incorporate design elements as set forth in System Standards. You may purchase furniture, fixtures, equipment and other supplies that you may need during renovation of the Facility through our affiliate, Worldwide Sourcing Solutions, Inc.'s "Approved Supplier" program. We may offer other optional architectural and design services for a separate fee. You will promptly provide us with copies of permits, job progress reports, and other information as we may reasonably request. We may inspect the work while in progress without prior notice.

**2.3 Identification of Facility.** You may continue to identify and operate the Facility as part of the System while you perform the Improvement Obligation, if any.

### **3. MANDATORY SUPPORT SERVICES AND FEES.**

**3.1 Mandatory Support Services and Fees.** We will provide training for your general manager as set forth in Section 4.1 of the Agreement if he/she attends the training by the deadline set forth in Section 4.1. The tuition for this mandatory training is currently \$2,~~000~~250.

### **4. DEFINITIONS.**

Effective Date means the date that you first take possession of the Facility, even if you sign this Agreement after the date you first take possession of the Facility.

Opening Date means the date as of which we authorize you to open the Facility for business identified by the Marks and using the System, even if you sign this Agreement after that date. Unless we require that you close the Facility to perform any pre-opening Improvement Obligation, the Opening Date is the Effective Date.

**SCHEDULE D**  
**ADDENDUM FOR TRANSFER FACILITIES**

[Punch List Attached]

**SCHEDULE D**  
**ADDENDUM FOR RENEWAL FACILITIES**

This Addendum applies if you are renewing the membership for an existing Chain Facility by entering into a new Membership Agreement.

**1. CONTINUING OBLIGATION.**

**1.1** This Addendum is for the renewal of the Membership for an existing Chain Facility first granted to you in a Membership Agreement dated \_\_\_\_\_ (the “Prior Agreement”). You must perform any and all of your obligations (financial and otherwise) under the Prior Agreement remaining as of the date of this Agreement and correct any uncured defaults, except as may be expressly superseded by this Agreement.

**2. YOUR IMPROVEMENT OBLIGATION.**

**2.1 Generally.** You must renovate and improve the Facility in accordance with this Agreement and System Standards. You must provide us with proof that you own or lease the Facility by the Opening Date. You must maintain control of the Facility consistent with such documentation during the Term. You must begin renovation of the Facility no later than 30 days after the Effective Date. Time is of the essence for the completion of the Improvement Obligation. We may, however, in our sole discretion, grant one or more extensions of time to perform any phase of the Improvement Obligation. The grant of an extension will not waive any other default existing at the time the extension is granted. All renovations must comply with System Standards, this Agreement and the Punch List. Your general contractor or you must carry the insurance required under this Agreement during renovation. The deadline for completing the Improvement Obligation shall be as specified on any Punch List attached to this Agreement, but is otherwise 90 days from the Effective Date. We may, in our sole discretion, terminate this Agreement by giving written notice to you (subject to applicable law) if you do not commence or complete the improvement of the Facility by the dates specified in the Punch List or otherwise and you fail to do so within five days after we send you written notice of default. You must also pay us the Reinspection Fee described in Section 3.7 if you fail to complete any Improvement Obligation by the deadline established in the Punch List or otherwise and our representatives must return to the Facility to inspect it.

**2.2 Improvement Plans.** You will create plans and specifications for the work described in Section 2.1 of this Schedule D (based upon the System Standards and this Agreement) if we so request and submit them for our approval before starting improvement of the Location. We will not unreasonably withhold or delay our approval, which is intended only to test compliance with System Standards, and not to detect errors or omissions in the work of your architects, engineers, contractors or the like, who must exercise their own independent professional care, skill and diligence in the design and renovation of your Facility. Our review does not cover technical, architectural or engineering factors relating to the existing structure at the Location, or compliance with federal, state or local laws, regulations or code requirements, for which your architect is responsible. You must allow for 10 days of our review each time you submit Plans to us. We will not be liable to your lenders, contractors, employees, guests, others or you on account of our review or approval of your plans, drawings or specifications, or our inspection of the Facility before, during or after renovation or construction. Any material variation from the

Approved Plans requires our prior written approval. Approved Plans must incorporate design elements as set forth in System Standards. You may purchase furniture, fixtures, equipment and other supplies that you may need during renovation of the Facility through our affiliate, Worldwide Sourcing Solutions, Inc.'s "Approved Supplier" program. We may offer other optional architectural and design services for a separate fee. You will promptly provide us with copies of permits, job progress reports, and other information as we may reasonably request. We may inspect the work while in progress without prior notice.

**2.3 Identification of Facility.** You may continue to identify and operate the Facility as part of the System while you perform the Improvement Obligation, if any.

### **3. DEFINITIONS.**

Opening Date has the same meaning as Effective Date.

**SCHEDULE D**  
**ADDENDUM FOR RENEWAL FACILITIES**

**[Punch List Attached.]**

**GUARANTY**

To induce TMH WORLDWIDE, LLC, its successors and assigns (“you”) to sign the Membership Agreement (the “Agreement”) with the party named as the “Member,” to which this Guaranty is attached, the undersigned, jointly and severally (“we, “our” or “us”), irrevocably and unconditionally (i) warrant to you that Member’s representations and warranties in the Agreement are true and correct as stated, and (ii) guaranty that Member’s obligations under the Agreement, including any amendments, will be punctually paid and performed.

Upon default by Member and notice from you we will immediately make each payment and perform or cause Member to perform, each unpaid or unperformed obligation of Member under the Agreement. Without affecting our obligations under this Guaranty, you may without notice to us extend, modify or release any indebtedness or obligation of Member, or settle, adjust or compromise any claims against Member. We waive notice of amendment of the Agreement. We acknowledge that Section 17 of the Agreement, including Remedies, Venue and Dispute Resolution, and WAIVER OF JURY TRIAL, applies to this Guaranty.

Upon the death of an individual guarantor, the estate of the guarantor will be bound by this Guaranty for obligations of Member to you existing at the time of death, and the obligations of all other guarantors will continue in full force and effect.

This Guaranty may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one in the same instrument.

IN WITNESS WHEREOF, each of us has signed this Guaranty effective as of the date of the Agreement.

**GUARANTORS:**

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

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

## AFFILIATION FEE NOTE

\$ \_\_\_\_\_

Parsippany, New Jersey

Date:

FOR VALUE RECEIVED, the undersigned \_\_\_\_\_, \_\_\_\_\_ (“Maker”) promises to pay to the order of TMH Worldwide LLC, a Delaware limited liability company (“Holder”), the principal sum of \_\_\_\_\_ (\$ \_\_\_\_\_) which amount shall bear no interest unless Maker defaults or this Note is accelerated. The principal amount will be payable in one installment due on the earlier to occur of \_\_\_\_\_, 20\_\_\_\_, or on the Opening Date of the Facility, as both terms are defined in the Membership Agreement described below. If this Note is not paid within ten (10) days after it is due, the outstanding principal balance shall bear simple interest at a rate equal to the lesser of eighteen (18%) percent per annum or the highest rate allowed by applicable law from its due date until paid. The outstanding principal balance of this Note shall be payable in lawful money of the United States of America at 22 Sylvan Way, Parsippany, New Jersey 07054, or at such other place as Holder may direct by written notice to Maker.

If a Termination of the Membership Agreement between Maker and Holder occurs for any reason, or Maker defaults under the Membership Agreement and fails to cure the default within the time permitted under the Membership Agreement, if any, or any other event occurs which permits Holder to terminate the Membership Agreement as provided in Section 11.2, or a Transfer occurs, the outstanding principal balance of this Note shall be immediately due and payable without further notice, demand or presentment. Any payments shall be first applied to any accrued interest and then to principal. Maker has the right to prepay this Note, in whole or in part, at any time, without premium or penalty. Prepayments of principal will be applied without notation on this Note.

This Note is issued pursuant to the Membership Agreement between Holder and Maker for the operation of a Trademark Collection System facility (the “Facility”) to be located at \_\_\_\_\_. All terms not defined herein shall have the same definition as in the Membership Agreement. Maker’s obligation to pay this Note shall be absolute and unconditional, and all payments shall be made without setoff, deduction, offset, recoupment or counterclaim.

If this Note is collected by or through an attorney at law, the Holder shall be entitled to collect reasonable attorney’s fees and all costs of collection. This Note is issued in and shall be governed and construed according to the laws of the State of New Jersey (without the application of conflict of laws principles). Each maker, endorser, guarantor or accommodation party liable for this Note waives presentment, demand, notice of demand, protest, notice of non-payment, notice of protest, notice of dishonor, and diligence in collection. Holder reserves the right to modify the terms of this instrument, grant extensions, novations, renewals, releases, discharges, compositions and compromises with any party liable under this Note, with or without any notice to or the consent of, and without discharging or affecting the obligations of any other party liable under this Note. The terms “Holder” and “Maker” shall be deemed to include their respective

heirs, successors, legal representatives and assigns, whether by voluntary action of the parties or by operation of law. All references to “Maker” shall mean and include the named Maker and all co-makers, guarantors, sureties and accommodation parties signing or endorsing this Note, each of whom shall be jointly, severally and primarily liable as the maker of this Note.

IN WITNESS WHEREOF, the undersigned have executed this instrument effective as of the date first above written.

**WITNESS:**

**MAKER:**

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**CO-MAKERS:**

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**DEVELOPMENT INCENTIVE NOTE\***

\$ \_\_\_\_\_

Parsippany, New Jersey

Date:

FOR VALUE RECEIVED, the undersigned \_\_\_\_\_, \_\_\_\_\_ (“Maker”) promises to pay to the order of TMH Worldwide LLC, a Delaware limited liability company (“Holder”), the principal sum of \_\_\_\_\_ (\$ \_\_\_\_\_) which amount shall bear no interest unless Maker defaults or this Note is accelerated. The principal amount will be disbursed by Holder to Maker, and Maker will become subject to the obligation to repay or discharge this Note, when and if Maker opens the Facility in accordance with the Membership Agreement, as described below. On each anniversary of the Facility’s Opening Date, one-\_\_\_\_\_ of the original principal amount will be forgiven without payment. Maker’s obligation to repay the principal of this Note will cease and this Note will be canceled and discharged when the principal is completely forgiven. If this Note is accelerated and is not paid within ten (10) days after it is due, the outstanding principal balance shall bear simple interest at a rate equal to the lesser of eighteen (18%) percent per annum or the highest rate allowed by applicable law from its due date until paid. The outstanding principal balance of this Note shall be payable in lawful money of the United States of America at 22 Sylvan Way, Parsippany, New Jersey 07054, or at such other place as Holder may direct by written notice to Maker. This Note shall be accelerated upon any of the following events (each, an “Accelerating Event”): (i) a Termination of the Membership Agreement between Maker and Holder occurs for any reason; (ii) a Transfer occurs and the transferee does not assume Maker’s obligation under this Note in a writing acceptable to Holder prior to the closing of the Transfer; (iii) the Maker loses ownership or possession or the right to possession of the Facility, or otherwise loses the right to conduct the licensed business at the Facility, by foreclosure, deed in lieu of foreclosure or exercise of the secured party’s rights against any pledge of Member’s or any parent entity’s equity securities; or (iv) if any proceeding for the appointment of a receiver or other custodian or seeking marshaling or composition of or for Maker’s business or assets is filed in any court of competent jurisdiction, or otherwise commenced in accordance with Legal Requirements, and not dismissed within ninety (90) days. If such an Accelerating Event occurs, the outstanding, unamortized principal balance of this Note shall be immediately due and payable without further notice, demand or presentment. Any payments shall be first applied to any accrued interest and then to principal. Maker has the right to prepay this Note, in whole or in part, at any time, without premium or penalty. Prepayments of principal will be applied without notation on this Note.

This Note is issued pursuant to the Membership Agreement between Holder and Maker for the operation of a Trademark Collection System facility (the “Facility”) to be located at \_\_\_\_\_. All terms not defined herein shall have the same definition as in the Membership Agreement. If the Membership Agreement terminates before the Facility opens and Holder does not disburse the Development Incentive to Maker, then this Note will be deemed discharged and neither party

\* If you are a resident of community property or certain other states, your spouse must also sign the Note as a co-maker.

will have any further obligation to the other under this instrument. Maker's obligation to pay this Note shall be absolute and unconditional, and all payments shall be made without setoff, deduction, offset, recoupment or counterclaim.

If this Note is collected by or through an attorney at law, the Holder shall be entitled to collect reasonable attorney's fees and all costs of collection. This Note is issued in and shall be governed and construed according to the laws of the State of New Jersey (without the application of conflict of laws principles). Each maker, endorser, guarantor or accommodation party liable for this Note waives presentment, demand, notice of demand, protest, notice of non-payment, notice of protest, notice of dishonor and diligence in collection. Holder reserves the right to modify the terms of this instrument, grant extensions, renewals, releases, discharges, compositions and compromises with any party liable on this Note, with or without notice to or the consent of, or discharging or affecting the obligations of any other party liable under this instrument. The terms "Holder" and "Maker" shall be deemed to include their respective heirs, successors, legal representatives and assigns, whether by voluntary action of the parties or by operation of law. All references to "Maker" shall mean and include the named Maker and all co-makers, guarantors, sureties and accommodation parties signing or endorsing this Note.

IN WITNESS WHEREOF, the undersigned have executed this instrument effective as of the date first above written.

**WITNESS:**

**MAKER:**

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**CO-MAKERS:**

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**TO BE USED BY A TRANSFEREE TO ASSUME THE UNAMORTIZED  
BALANCE OF THE NOTE.**

**ASSUMPTION OF DEVELOPMENT INCENTIVE NOTE**

FOR VALUE RECEIVED, the undersigned Assignee and Principals jointly and severally assume and undertake to pay when due the outstanding principal amount and accrued interest, if any, of that certain Development Incentive Note, dated \_\_\_\_\_, issued by \_\_\_\_\_, in the original principal amount of \$\_\_\_\_\_, in accordance with the terms of the Note, a copy of which is attached to this instrument. The undersigned intend for TMH Worldwide, LLC, its successors and assigns to rely on this instrument to approve and authorize the transfer of the Trademark Collection “Facility” located at \_\_\_\_\_ to the undersigned Assignee. The undersigned have obtained information on the outstanding principal amount of the Note from the present Member of the Facility satisfactory to the undersigned and represent to TMH Worldwide, LLC that the undersigned will benefit from the assumption of the Note.

If the Note is hereafter assumed by another transferee of the Facility, the undersigned shall remain liable to repay the Note upon demand according to its original tenor if the Note becomes due in accordance with its terms and the party then primarily liable fails to pay the Note within 10 days after the due date. The undersigned waive presentment, demand, notice of demand, protest, notice of non-payment, notice of protest, notice of dishonor and diligence in collection of the Note and any prior or subsequent instruments similar to this instrument. Holder reserves the right to modify the terms of the Note, grant extension, renewals, releases, discharges, compositions and compromises with any party liable on this Note, with or without notice to or the consent of, or discharging or affecting the obligations of any other party liable under the Note and any prior or subsequent instruments similar to this instrument.

IN WITNESS WHEREOF, the undersigned have executed and delivered this instrument effective as of the date and time the transfer of the Facility to the undersigned is effective.

**ASSIGNEE:**

**ASSIGNEE PRINCIPALS:**

\_\_\_\_\_

\_\_\_\_\_

Individually, as Co-Maker

By: \_\_\_\_\_

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

\_\_\_\_\_

Individually, as Co-Maker

**ADDENDUM TO THE FRANCHISE AGREEMENT  
FOR ELECTRONIC FUNDS TRANSFERS**

This “**Addendum**,” dated as of \_\_\_\_\_, 20\_\_ (the “**Addendum Effective Date**”) is entered into by and between \_\_\_\_\_, a \_\_\_\_\_ (“**we**,” “**our**,” “**us**”) and \_\_\_\_\_, a \_\_\_\_\_ company (“**you**” or “**your**”). This Addendum amends and supplements that certain Membership or Franchise Agreement, dated as of \_\_\_\_\_, 20\_\_ (the “**Franchise Agreement**”) between you and us. Unless the context indicates otherwise, the definition of terms in the Franchise Agreement applies to this Addendum. The Franchise Agreement authorizes you to operate a \_\_\_\_\_ System facility in \_\_\_\_\_, \_\_\_\_\_ for guest lodging (the “**Facility**”) and mandates certain payments to us. This Addendum relates to such payments and certain other payments.

Notwithstanding anything to the contrary set forth in the Franchise Agreement, the following provisions shall supersede and apply:

1. Purpose. The parties wish to enter into an arrangement by which you use the ACH funds transfer system to pay amounts due under the Franchise Agreement and any other addenda to the Franchise Agreement, as well as any agreements relating to the Central Reservation System.

2. Authorization and Funds Transmittal.

(a) During the Term of this Agreement (as defined below), you will pay us any amounts due under the Franchise Agreement and any ancillary agreements by EFT. The funds used for this payment must be immediately available on the Pay Date.

(b) The Bank you designate for the purposes of this Addendum will be a Receiving Depository Financial Institution. You will instruct your Bank to transmit funds for any payments to us to our Bank account specified in Section 3(c) using the ACH system. This transfer is subject to the rules and regulations of the ACH system, including the rules of the National Automated Clearing House Association (the “**NACHA**”). We will consider your payment to have been made to us on the same Banking Day that our Bank credits our Bank account for the payment.

(c) You will take all necessary steps to cause your Bank to designate the payments you make under this Addendum as Preauthorized Payments under the ACH system, and that you, acting as a Receiver, authorize us to make Debit Entries from your designated Bank account. We will act as an Originator under the ACH system and make these Debit Entries on the day your payment to us is due, unless we determine in our sole discretion and after giving you notice that we will make a Debit Entry on a later date. We will use commercially reasonable efforts to generate the necessary debit files for your Bank to notify them of our Debit Entry. You are responsible for any losses due to a third party’s unauthorized access to information in transit between your Bank and our Bank or while that information is in the ACH system. We are responsible for any losses once our Bank

receives the Credit Entry representing your payment. If we receive a duplicate payment, overpayment, fraudulent payment or any payment in error, we may, as we determine in our sole discretion, (i) return the payment directly to you within three (3) business days, (ii) make a credit transfer to your Bank within three (3) business days, or (iii) retain the payment as a credit against your future payment obligations to us.

(d) You represent and warrant that you have completed the ACH form that is attached to this Addendum fully and accurately. You will update the ACH form as necessary whenever the information changes.

(e) You agree to complete and submit to us your monthly franchise report for each month during the term within eight (8) days after the end of the month. We will calculate your Recurring Fees and submit an EFT request for the actual fees due and the unpaid balance of any invoice we send you promptly after you submit the report. You covenant and agree to maintain accurate records of all Gross Room Revenues on the Facility's property management system. You authorize us to poll the Facility property management system electronically to obtain such information.

3. Bank Designations and Remittance Information.

(a) When you return the ACH form to us, you will also furnish us in writing with the following information required to perform Debit Entries: (i) the name, address and nine (9) digit Routing Number of your Bank; and (ii) your account name, number and type of account (checking, savings or lockbox).

(b) You are responsible for obtaining remittance information from your Bank. You will send remittance information regarding each EFT transaction made under this Addendum directly to our Bank by a remittance advice. A remittance advice, however, does not warrant that the EFT transaction was timely made or that this transaction will be accepted by our Bank on that date. The remittance advice must also be communicated to our Bank according to appropriate electronic transmission standards.

(c) EFT payments to us or our Debit Entries against your Bank account will be credited to the following Bank account:

Bank Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Account Name: \_\_\_\_\_  
Account Number: \_\_\_\_\_  
Bank ABA#: \_\_\_\_\_

We will take commercially reasonable steps to ensure that our bank is an Originating Depository Financial Institution under the ACH system.

(d) If your EFT information changes for any reason, you will promptly notify us in writing of the changes at least five (5) business days before the next monthly payment of Recurring Fees is due to us under the Franchise Agreement. If a Return occurs because your EFT information is incorrect or you used our EFT information incorrectly, you will be responsible for (i) making a correct payment to us; (ii) paying any additional amounts, such as interest; and (iii) recovering any erroneously directed funds. You will immediately notify us in writing if you learn of any actual or suspected errors or inaccuracies relating to your payment or your Bank account information. If your Bank account has insufficient funds on the Pay Date, you will pay any late fees, finance charges and other such expenses that you or we incur. We are not liable for errors resulting from changes to the EFT information provided by your Bank.

(e) You will pay all fees and charges assessed by your Bank for performing ACH transactions.

4. Changes to Bank Designations. Either you or we may change the designated Bank or account by giving the other party written notice and the appropriate revised information. The change will be effective ten (10) days after the other party receives the notice.

5. Security and Authentication. You and we will comply at all times with all applicable laws and regulations. You and we will also use commercially reasonable efforts to ensure that information transmitted electronically is protected against accidental disclosure to and against intrusions and security breaches by unauthorized third parties. You will ensure that your Bank follows standard industry practices regarding encryption and authentication of information.

6. Delays or Failures; Alternate Procedures.

(a) If a payment due date falls on a non-Banking Day, your payment to us must be made on the next Banking Day. You will not be in default under this Addendum if the completion of a Debit Entry is delayed because of the failure or delay of the ACH system or our Bank. However, you must ensure that payment to us is made by either EFT or a substitute payment method we specify as soon as possible after we notify you of the failure or delay.

(b) In the event of a duplicate payment, overpayment, fraudulent payment or payment in error, you may cause the prompt cancellation of any EFT or Wire Transfer to us. You will immediately notify us in writing of this event and your cancellation. We will reasonably cooperate with you to complete the cancellation of that transaction.

(c) In the event (i) the ACH system is unavailable for a period of time that we, in our sole discretion, consider unacceptable, or (ii) we determine, in our sole discretion, that certain payments to us should not be made through the ACH system, we may require you, after giving you written notice, to make these payments to us by Wire Transfer. You will make whatever arrangements are necessary with your Bank to pay us by Wire Transfer on the date that payment is due. You will instruct your Bank to direct the Wire Transfer to

our Bank account specified in Section 3(c). You will pay any Wire Transfer fees assessed by your Bank, and you will not deduct those fees from the amount of your payment. You will be in default under this Addendum and the Franchise Agreement if you fail to make payments to us by Wire Transfer after we notify you accordingly, and you do not cure this default within ten (10) days after we notify you in writing of this failure.

7. Term. This Addendum will be effective on the Addendum Effective Date and will continue in full force and effect throughout the Term of the Franchise Agreement.

8. Indemnification; Consequential Damages.

(a) You will indemnify and hold harmless us, our affiliates, successors and assigns and each of the respective directors, officers and employees associated with them against all claims relating to your operation, use or non-use of the ACH system or the transmission of Wire Transfers.

(b) NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR LOST SAVINGS) RELATING TO THIS ADDENDUM, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN SUCH DAMAGES.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date set forth above.

**WE:**

\_\_\_\_\_

By: \_\_\_\_\_

(Vice) President

**YOU:**

\_\_\_\_\_

By: \_\_\_\_\_

Title:

## APPENDIX A-1

### DEFINITIONS

**ACH** means the Automated Clearing House, a nationwide payment and collection system that provides for electronic distribution and Settlement of funds. Participating financial institutions exchange funds on behalf of an Originator and a Receiver in electronic form and perform the accounting necessary to settle the transaction.

**Bank** means a financial institution which, as an ordinary part of its business, engages in funds transfers for itself, Originators and Receivers.

**Banking Day** means any day on which a Bank is open to the public for carrying on substantially all its banking functions.

**Credit Entry** means an entry to the record of a Bank account representing the transfer or placement of funds in that account.

**Debit Entry** means an entry to the record of a Bank account representing the transfer or removal of funds from that account.

**EFT** means a transfer of funds under this Addendum performed through the ACH system for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. Under this Addendum, an EFT does not include a Wire Transfer or a transaction originated by cash, check, promissory note, or similar paper document.

**Originating Financial Depository Institution** means a Bank qualified to originate ACH entries under applicable law and NACHA rules and regulations.

**Originator** means an individual or entity that initiates an entry into the ACH system through an Originating Financial Depository Institution.

**Pay Date** means the date on which the funds are to be freely available to the transferee for withdrawal in cash.

**Preauthorized Payment** means a standing authorization to perform an electronic transfer (direct debit) through the ACH system.

**Receiver** means an individual or entity that authorized an originator to initiate a credit or debit entry to an account held at a Receiving Depository Financial Institution.

**Receiving Depository Financial Institution** means a Bank qualified to receive ACH entries under applicable law and NACHA rules and regulations.

**Returns** means any ACH entry that has been returned to the Originating Financial Depository Institution by the Receiving Depository Financial Institution or by the ACH Operator because it cannot be processed.

**Routing Number** means the nine (9) digit routing number that identified a specific Bank.

**Settlement** means a transfer of funds from a Bank with a debit position to a Bank with a credit position or an agreed accounting entry between them to cover one (1) or more prior funds transfer transactions.

**Wire Transfer** means an electronic transfer of funds under this Addendum not performed through the ACH system for the purpose, by specific per-transaction instruction to the Bank, of ordering, instructing, or authorizing a financial institution to debit or credit an account.

## PERIODIC ACH BANK DEBIT AUTHORIZATION AGREEMENT

Please fill out the following information to allow \_\_\_\_\_ (the “Franchisor”) to periodically debit your bank checking account through the Automated Clearing House System.

### Account Holder Information

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Account Holder

---

Address

City

Province

Postal Code

### Bank Information

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Name of bank to be debited

---

Bank ABA transit-routing number

---

bank account number

### **Please read and sign below**

- You must attach a voided check to this form
- All owners of the bank account must sign this form

The undersigned hereby authorizes the Franchisor, or its designee, to initiate direct withdrawals from the checking account indicated above and further authorizes the bank to debit these amounts from the account. The undersigned understands that the amount of these entries will vary in time and amounts, and the undersigned waives any written notification of these entries.

This form is executed under an Addendum to the Franchise Agreement for Electronic Funds Transfers between the Franchisor and the undersigned.

This authority is to remain in full force and effect until the Franchisor has received written notification from the undersigned of its termination in such time and in such matter as to afford the Franchisor, its designee and the bank a reasonable opportunity to act on it.

[MEMBER NAME]

By: \_\_\_\_\_  
Account owner's signature

\_\_\_\_\_  
Date

Electronic Funds Authorization - 7

## ASSIGNMENT AND ASSUMPTION AGREEMENT

This "Agreement" is made and entered into as of \_\_\_\_\_, 20\_\_ by and among \_\_\_\_\_, \_\_\_\_\_ ("Assignor"), \_\_\_\_\_, \_\_\_\_\_ ("Assignee"), and TMH WORLDWIDE, LLC, a Delaware limited liability company (the "Company").

Recitals. Assignor is the Member under a Membership Agreement, dated as of \_\_\_\_\_, 20\_\_, and certain related ancillary agreements with TMH WORLDWIDE, LLC (the "Company"). The Membership Agreement, along with the ancillary agreements, will be referred to herein as the "Primary Agreements." The Primary Agreements are attached to this Agreement as Exhibit A and relate to the granting of a Trademark Collection membership for a lodging facility designated as Unit No. \_\_\_\_\_ (the "Facility") located at \_\_\_\_\_. Assignor is conveying the Facility to Assignee. Assignor desires to assign the Primary Agreements to Assignee, which desires to assume and accept the rights and obligations under the Primary Agreements, effective as of the date of this Agreement.

IN CONSIDERATION of the premises, the mutual promises in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, it is agreed as follows:

1. Assignor assigns, transfers, bargains, sells, and delegates to Assignee all of its rights, title and interest in and to the Primary Agreements, and its obligations existing and arising in the future, under the Primary Agreements.
2. Assignee accepts and assumes the rights, benefits and obligations of the Member under the Primary Agreements, effective as of the date of this Agreement, including all existing and future obligations to pay and perform under the Primary Agreements. Assignor shall remain secondarily liable for payment and performance of the Primary Agreements. The owners of Assignee have executed the Guaranty attached to this Agreement.
3. To induce the Company to consent to this Agreement and the assignment of the Primary Agreements, Assignee adopts and makes to the Company the representations and warranties of Member set forth in Section 14 of the Franchise Agreement as of the effective date of this Agreement. Assignee is the owner of fee simple title to the Facility as of the effective date of this Agreement. Assignee's owners are shown on Exhibit B attached to this Agreement.
4. Assignee will deliver, together with this Agreement, evidence of insurance meeting System Standards, as contemplated under the Agreements and the Trademark Collection System Standards.
5. This Agreement shall be deemed a supplement to and modification of the Primary Agreements,, as previously modified by any prior amendments and addenda and this Agreement. Except as expressly stated, no further supplements to or modifications of the Primary Agreements are contemplated by the parties. There are no oral or other written arrangements between the Company and Assignor except as expressly stated in the Primary Agreements and any written amendment or addendum thereto included as part of Exhibit "A". The Primary Agreements, as

previously modified, are incorporated by this reference.

6. Assignor and Assignee acknowledge that the Company has not participated in the negotiation and documentation of the transfer transaction between the parties, and neither has made any representation or warranty, nor furnished any information to either party. Assignee waives any and all claims against the Company, and its respective officers, directors, shareholders, affiliated corporations, employees and agents arising out of the transfer of the Facility. Assignee expressly acknowledges that the Company was not a participant in such transaction and that the Company has no liability in connection therewith. Assignee acknowledges that it has made such investigations of Assignor and the Facility as it believes appropriate.

7. Any notice required under the Agreements to be sent to Assignee shall be directed to:

**ASSIGNEE:**

Name: \_\_\_\_\_, Street: \_\_\_\_\_, City, State & Zip: \_\_\_\_\_, Attention: \_\_\_\_\_.

8. The Company consents to the assignment and assumption of the Primary Agreements as provided in this Agreement. No waivers of performance or extensions of time to perform are granted or authorized. The Company will treat Assignee as the Member under the Primary Agreements. The Membership of Assignor under Section 1 of the Membership Agreement will be terminated effective as of the date of this Agreement. The Member Term of Assignee begins on the date of this Agreement and expires on the date the original Member Term of Assignor expires.

9. Assignee agrees that, notwithstanding anything to the contrary in the Primary Agreements, you will report and pay to us all Recurring Fees and other fees and charges due under the Primary Agreements on-line via our self-service Electronic Invoice Presentment and Payment tool (~~“WynPay”~~) accessible through our Chain intranet. In the Electronic Invoice Presentment and Payment tool ~~WynPay~~ on-line environment, payments can be made either through the electronic check payment channel or the credit card payment channel. We reserve the right to change, from time to time, the technologies or other means for reporting and paying fees to us by amending System Standards.

10. **[INSERT If there is a Development Incentive Note]** Assignee and its Principals have executed and delivered to the Company an Assumption of Development Incentive Note in the form attached to the Development Incentive Note of Assignor, as applicable, provided that such Assumption does not discharge or release Assignor and the co-makers of the Note relating to Assignor from liability under the Note.]

IN WITNESS WHEREOF, the undersigned have executed and delivered this Agreement effective as of the date first above written.

**THE COMPANY:**  
TMH WORLDWIDE, LLC

By: \_\_\_\_\_  
Vice President

**ASSIGNOR:**

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

**ASSIGNEE:**

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

Exhibit "A" - Primary Agreements  
Exhibit "B" - Owners of Assignee  
Guaranty

**EXHIBIT A**

**THE AGREEMENTS**

Copies of Membership Agreement and other related documents follow this page.

**EXHIBIT B**

Schedule "B" of the Membership Agreement is hereby amended as follows:

1. Owners (names, addresses and percentage equity interests; attached separate exhibit if necessary):

a.	Of Assignee:	Ownership %
	Name: _____	_____
	Address: _____	
	_____	
	_____	
	Name: _____	_____
	Address: _____	
	_____	
	_____	
	Name: _____	_____
	Address: _____	
	_____	
	_____	
	Name: _____	_____
	Address: _____	
	_____	
	_____	

## GUARANTY

As an inducement to TMH Worldwide, LLC (the “Company”) to execute the foregoing Assignment and Assumption Agreement, the undersigned, jointly and severally, hereby irrevocably and unconditionally (i) warrant to the Company and its successors and assigns that all of Assignee’s representations and warranties in the Assignment and Assumption Agreement are true and correct as stated, and (ii) guaranty that all of Assignee’s obligations as the substituted member (hereinafter referred to as “Member”) under the Membership Agreement, including any amendments thereto whenever made (the “Agreement”), will be punctually paid and performed.

Upon default by Member and notice from the Company, the undersigned will immediately make each payment and perform or cause Member to perform, each obligation required of Member under the Agreement. Without affecting the obligations of the undersigned under this Guaranty, the Company may without notice to the undersigned extend, modify or release any indebtedness or obligation of Member, or settle, adjust or compromise any claims against Member. The undersigned waive notice of amendment of the Agreement, the giving of notice or demand by the Company for payment or performance by Member, and acknowledge that Section 17 of the Agreement, including Remedies, Venue and Dispute Resolution, and WAIVER OF JURY TRIAL, applies to this Guaranty.

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 all other guarantors will continue in full force and effect.

This Guaranty may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one in the same instrument.

IN WITNESS WHEREOF, each of the undersigned has signed this Guaranty as of the date of the above Agreement.

### GUARANTORS:

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

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

**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO THE  
CALIFORNIA FRANCHISE INVESTMENT LAW**

This Addendum to the Franchise Agreement by and between TMH WORLDWIDE, LLC (“we”, “our” or “us”) and (‘‘you’’) is dated \_\_\_\_\_, 20\_\_.

Notwithstanding anything to the contrary set forth in the Franchise Agreement, the following provisions shall supersede and apply:

1. Our right to terminate the Franchise Agreement under Section 11.2 if you commence a bankruptcy proceeding may not be enforceable under federal bankruptcy law.
  
2. Under Section 1671 of the California Civil Code, certain liquidated damages clauses are unenforceable.
  
3. The California Franchise Relations Act (Business and Professions Code Section 20000 through 20043) provides rights to you concerning termination, transfer, or nonrenewal of a franchise. If the Franchise Agreement is inconsistent with the law, the law will control.
  
4. If the Franchise Agreement requires you to execute a general release of claims upon renewal or transfer of the Franchise Agreement, California Corporations Code Section 31512 provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of that law or any rule or order thereunder is void. Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Section 31000-31516). California Business and Professions Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000-20043). To the extent required by such laws, Franchisee shall not be required to execute a general release.
  
5. All other rights, obligations, and provisions of the Franchise Agreement shall remain in full force and effect. Only the Sections specifically added to or amended by this Addendum shall be affected. This Addendum is incorporated in and made a part of the Franchise Agreement for the State of California.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date set forth above.

TMH WORLDWIDE, LLC

By: \_\_\_\_\_  
(Vice) President

YOU, as franchisee:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO  
ILLINOIS LAW**

This Addendum to the Franchise Agreement, the SynXis Subscription Agreement, the OPERA Supplemental Services Agreement, Signature Reservation Services Agreement, Hotel Revenue Management Agreement, Three Party Agreement, Lender Notification Agreement, Termination and Release Agreement and Assignment and Assumption Agreement by and between TMH WORLDWIDE, LLC (“we”, “our” or “us”) and (“you”) is dated \_\_\_\_\_, 20\_\_.

The following provisions supersede and control any conflicting provisions of the Franchise Agreement:

Illinois law governs the Franchise Agreement.

In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in the Franchise Agreement that designates jurisdiction and venue in a forum outside of the State of Illinois is void. However, the Franchise Agreement may provide for arbitration to take place outside of Illinois.

Franchisees’ rights upon termination and non-renewal are set forth in Sections 19 and 20 of the Illinois Franchise Disclosure Act.

In conformance with Section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date set forth above.

TMH WORLDWIDE, LLC

By: \_\_\_\_\_  
(Vice) President

YOU, as franchisee:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO THE  
MARYLAND FRANCHISE REGISTRATION AND DISCLOSURE LAW**

This Addendum to the Franchise Agreement by and between TMH WORLDWIDE, LLC (“we”, “our” or “us”) and \_\_\_\_\_ (“you”) is dated \_\_\_\_\_, 20\_\_.

1. Notwithstanding anything to the contrary set forth in the Franchise Agreement, the following provision shall supersede and apply to all franchises offered and sold under the laws of the State of Maryland:

No release language set forth in Sections 5, 9 or elsewhere in the Franchise Agreement shall relieve us or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of Maryland. Pursuant to the Maryland Franchise Registration and Disclosure Law, any claim by you under such law must be brought within three years of the grant of the franchise. You may file this action in any Maryland court or Federal court located in Maryland.

2. Section 11.2 of the Franchise Agreement provides that the Franchise will automatically terminate upon your bankruptcy. This provision may not be enforceable under Federal bankruptcy law (11 U.S.C. Section 101 et seq.).

3. The Franchise Agreement states that New Jersey law generally applies. However, the conditions under which your franchise can be terminated and your rights upon nonrenewal may be affected by Maryland laws, and we will comply with that law in Maryland.

4. Notwithstanding anything to the contrary stated in Section 17.6.3, you may bring a lawsuit in Maryland against us for claims arising under the Maryland Franchise Registration and Disclosure Law.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date set forth above.

TMH WORLDWIDE, LLC

BY: \_\_\_\_\_  
(Vice) President

YOU, as franchisee:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO  
THE MINNESOTA FRANCHISE INVESTMENT LAW**

This Addendum to the Franchise Agreement by and between TMH Worldwide, LLC (“we”, “our” or “us”) and \_\_\_\_\_ (“you”) is dated \_\_\_\_\_, 20\_\_.

Notwithstanding anything to the contrary set forth in the Franchise Agreement, the following provisions shall supersede and apply:

1. In compliance with Minnesota Rule 2860.4400J, the eleventh sentence in Subsection 11.4 of the Franchise Agreement is amended to read as follows:

“You recognize that any use of the System not in accord with this Agreement will cause us irreparable harm for which there is no adequate remedy at law, entitling us to seek both temporary and permanent injunctive relief against you from any court of competent jurisdiction, which may require us to post a bond.”

In addition, the following language is added at the end of Section 17.6.3 of the Franchise Agreement:

Minnesota Statutes, Section 80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. Nothing in the Franchise Disclosure Document or this Franchise Agreement 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 Minnesota.

2. Minnesota law provides franchisees with certain termination, non-renewal and transfer rights. Minnesota Statutes, Section 80C. 14, Subdivisions 3, 4 and 5 require, except in certain specified cases, that a franchisee be given 90 days’ notice of termination (with 60 days to cure) and 180 days’ notice for non-renewal of the Franchise Agreement and that consent to the transfer of the franchise will not be unreasonably withheld.

3. We will not require you to assent to a release, assignment, novation or waiver that would relieve any person from liability imposed by Minnesota Statutes, Sections 80C.01 to 80C.22, provided that the foregoing shall not bar the voluntary settlement of disputes.

4. You understand that Minnesota law limits you to a three year period from the date a claim accrues in which to bring any claim against us for a violation of Minnesota Statutes, Section 80C.17.

5. To the extent required by the Minnesota Franchise Act, we will protect your rights to use the trademarks, service marks, trade names, logo types or other commercial symbols related to the trademarks or indemnify you from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the trademarks, provided you are using the names and marks in accordance with the Franchise Agreement.

6. All other rights, obligations, and provisions of the Franchise Agreement shall remain in full force and effect. Only the Sections specifically added to or amended by this Addendum shall be affected. This Addendum is incorporated in and made a part of the Franchise Agreement for the State of Minnesota.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date set forth above.

TMH WORLDWIDE, LLC

By: \_\_\_\_\_  
(Vice) President

YOU, as franchisee:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO  
THE NEW YORK GENERAL BUSINESS LAW**

This Addendum to the Franchise Agreement by and between TMH WORLDWIDE, LLC (“we”, “our” or “us”) and (“you”) is dated \_\_\_\_\_, 20\_\_.

The following provisions supersede and control any conflicting provisions of the Franchise Agreement:

1. Section 9.3 is amended by adding the following statement immediately after the first sentence of such Section:

However, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the related regulations shall remain in force; it being the intent of this proviso to satisfy the non-waiver provisions of GBL, Sections 687.4 and 687.5.

2. Section 10 is amended by adding the following statement immediately after the first sentence of such Section:

However, no assignment shall be made except to an assignee who, in our good faith judgment, is willing and able to assume our obligations under this Agreement.

3. You acknowledge that, pursuant to Section 1136 of the New York Tax Law, we are obligated to file an annual information return with the New York State Department of Taxation and Finance which identifies, among other things, the “gross sales” of your franchise as you reported such “gross sales” to us. You release any claim against us or our agents relating to our filing of an information return pursuant to Section 1136 of the New York Tax Law.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date set forth above.

TMH WORLDWIDE, LLC

By: \_\_\_\_\_  
(Vice) President

YOU, as franchisee:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

New York - 1

**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO THE  
NORTH DAKOTA FRANCHISE INVESTMENT LAW**

This Addendum to the Franchise Agreement by and between TMH WORLDWIDE, LLC (“we”, “our” or “us”) and \_\_\_\_\_ (“you”) is dated \_\_\_\_\_, 20\_\_\_\_.

The following provisions supersede and control any conflicting provisions of the Franchise Agreement:

1. Liquidated damages are prohibited by law in the State of North Dakota.
  
2. The Franchise Agreement will be governed and construed under the laws of the State of North Dakota. Any provision in the Franchise Agreement which designates jurisdiction or venue, or requires you to agree to jurisdiction or venue, in a forum outside of North Dakota, is deleted from any Franchise Agreement issued in the State of North Dakota. Any non-competition covenants contained in the Franchise Agreement shall be subject to the North Dakota laws on franchising.
  
3. Any provisions in the Franchise Agreement (including but not limited to Section 17.6.4) which require you to waive the right to a jury trial, or exemplary or punitive damages are deleted from any Agreements issued in the State of North Dakota.
  
4. Section 5 of the Franchise Agreement is revised to provide that a general release shall not be required as a condition to renewal.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date set forth above.

TMH WORLDWIDE, LLC

By: \_\_\_\_\_  
(Vice) President

YOU, as franchisee:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO THE  
RHODE ISLAND FRANCHISE INVESTMENT ACT**

This Addendum to the Franchise Agreement by and between TMH WORLDWIDE, LLC (“we” “our” or “us”) and \_\_\_\_\_ (“you”) is dated \_\_\_\_\_, 20\_\_.

Notwithstanding anything to the contrary stated in Section 17.6.1 or elsewhere in the Franchise Agreement, the Franchise Agreement shall be governed by Rhode Island law with respect to any claim enforceable under the Rhode Island Franchise Investment Act.

Sections 17.6.1 and 17.6.3 of the Franchise Agreement are supplemented by the addition of the following:

“§ 19-28.1-14 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 the Act.”

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date set forth above.

TMH WORLDWIDE, LLC

By: \_\_\_\_\_  
(Vice) President

YOU, as franchisee:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDENDUM TO THE FRANCHISE AGREEMENT PURSUANT TO  
THE WASHINGTON FRANCHISE INVESTMENT PROTECTION ACT**

This Addendum to the Franchise Agreement by and between TMH WORLDWIDE, LLC (“we”, “our” or “us”) and (“you”) is dated \_\_\_\_\_, 20\_\_.

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.

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.

A release or waiver of rights executed by a franchisee shall not include rights under the Washington Franchise Investment Protection Act except when executed pursuant to a negotiated settlement after the 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, rights or remedies under the Act such as a right to a jury trial may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor’s reasonable estimated or actual costs in effecting a transfer.

The undersigned does hereby acknowledge receipt of this Addendum.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

TMH WORLDWIDE, LLC

By: \_\_\_\_\_  
(Vice) President

YOU, as franchisee:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

4822-1755-4729, v. 1



22 Sylvan Way  
Parsippany, NJ 07054  
Attention: Franchise Sales  
(FAX) 973-753-4121

## **Franchise Application**

We would like to thank you for your interest in obtaining a Wyndham Hotel Group franchise. We appreciate the time and effort needed to complete the requested information.

Your cooperation will assist us in processing your application.

Because each step is critical in the application process, we have included an “Application Checklist” which will provide step by step guidance that will assist in avoiding unnecessary delays in the processing of your application.

Please forward the completed Application and all supporting documentation to your Wyndham Sales Representative who will be able to address any questions you may have.



WYNDHAM GRAND

DOLCE  
HOTELS AND RESORTS

esplendor  
BOUTIQUE HOTELS

DAZZLER  
HOTELS

WYNDHAM



TM  
TRADEMARK  
COLLECTION BY WYNDHAM

LAQUINTA

WINGATE  
BY WYNDHAM

WYNDHAM  
GARDEN

HAWTHORN  
SUITES BY WYNDHAM

AmericInn

RAMADA  
WORLDWIDE

BAYMONT  
INN & SUITES

MICROTEL  
BY WYNDHAM

Days Inn



Howard Johnson

Travelodge

# Wyndham Hotel Group Application Checklist

## APPLICATION FOR CONVERSIONS AND NEW CONSTRUCTION

Please review this checklist to avoid unnecessary delays in the processing of your application.



### Did You Remember To Include:

- FDD Receipt Page
  - Must be signed and dated, by a managing member or other executive officer
- Fully Completed Application
  - In general information on page 2, please include the closest major intersection or Landmark if no physical address is available. (New Construction ONLY)
  - Please complete all ownership information on pages 3-4  
(you may attach additional copies of page 4 if necessary):
    - Entity name controlling and/or purchasing the hotel (LLC, Corp, etc.)
    - Complete owner names and addresses, shareholder percentages  
(must equal 100%), emails and social security numbers
  - All owners must also sign, date and provide their social security number on page 5
- Personal Financial Statements
  - Provide a personal financial statement for at least two thirds (67%) ownership
    - Financials must be signed and dated, clearly stating net worth. (Tax returns are not acceptable)
- Entity Formation Documents
  - State filed and executed “Articles of Formation/Organization”
  - Operating Agreement (LLC), By Laws/Stock Certificates (Corp) and Partnership Agreement
    - Must include ownership breakdown percentages and be fully executed/signed
- Land Control
  - Recorded Warranty Deed, Lease Agreement and/or Purchase Agreement if you currently own or lease the property
- Application Fee: Payable to Wyndham Hotel Group

Please note: We will not be able to process your application until all of the items above are received. Please forward these items as soon as possible to avoid any potential delays in your closing. The change of ownership/transfer process generally takes 30 +/- days to complete.

**GENERAL INFORMATION**

**Prospective Location:**

CITY \_\_\_\_\_ COUNTY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_ CURRENT \_\_\_\_\_

NAME OF FACILITY OR BRAND AFFILIATION \_\_\_\_\_ PROPERTY PHONE \_\_\_\_\_

\_\_\_\_\_ PROPERTY FAX \_\_\_\_\_ CLOSEST \_\_\_\_\_ MAJOR \_\_\_\_\_

INTERSECTION OR LANDMARK \_\_\_\_\_ ROOMS \_\_\_\_\_

**APPLICATION TYPE** (Check One)

- New Construction
- Conversion
- Franchise Renewal
- Change of Ownership
- Receiver
- Lender
- Brand Repositioning  
(e.g. Ramada to Days Inn)

**BRAND** (Check One)

- AmericInn
- Baymont
- Days Inn
- Hawthorn
- Howard Johnson
- La Quinta
- Microtel
- Ramada
- Super 8
- The Registry Collection
- Trademark
- Travelodge
- TRYP
- Wingate
- Wyndham Garden
- Wyndham
- Wyndham Grand

**APPLICANT** (Check One)

- Individual/Sole Proprietor
- Multiple Individuals
- Partnership
  - Limited
  - General
  - Limited Liability
- Corporation
- Joint Venture
- Limited Liability Company
- Other

**Please refer to the respective FDD for the Application Fee amount, to be paid by check made payable to the desired brand. This fee is non-refundable except in the event that a franchise is not offered to the applicant because of proximity to another facility of the desired brand. In such event, Wyndham Hotel Group will refund the Application Fee.**

**APPLICANT**

Please provide below the name of a principal contact, to whom all correspondence should be addressed and who has authority to act for and bind the applicant to a contract.

**Principal Contact** \_\_\_\_\_

NAME:  Mr.  Mrs.  Ms. \_\_\_\_\_ PHONE \_\_\_\_\_

TITLE (President, VP, Treasurer, etc.) \_\_\_\_\_

ENTITY NAME (if applicable) \_\_\_\_\_

FAX \_\_\_\_\_ EMAIL ADDRESS \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

SPOUSE \_\_\_\_\_

If the proposed purchaser of franchise will be an entity, please provide below a breakdown of the beneficial ownership of the entity. If another entity will be an owner or the purchaser, then the beneficial ownership breakdown for that entity must be provided as well on a separate sheet.

**APPLICANT HOTEL EXPERIENCE**

**Other WHG lodging facilities in which the applicant or its principals have, or have had an interest: (attach resume if available)**

<u>Name</u>	<u>Location</u>	<u>Type of Interest and %</u> (i.e. Owner, Management, Other)	How long have you owned/ operated this facility?
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____
6) _____	_____	_____	_____
7) _____	_____	_____	_____
8) _____	_____	_____	_____
9) _____	_____	_____	_____
10) _____	_____	_____	_____

**ENTITY OWNERSHIP BREAKDOWN**

NAME:  Mr.  Mrs.  Ms. \_\_\_\_\_ % Owned \_\_\_\_\_

TITLE (President, VP, Treasurer, etc.) \_\_\_\_\_

PHONE \_\_\_\_\_ FAX \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

SOCIAL SECURITY # \_\_\_\_\_

NAME:  Mr.  Mrs.  Ms. \_\_\_\_\_ % Owned \_\_\_\_\_

TITLE (President, VP, Treasurer, etc.) \_\_\_\_\_

PHONE \_\_\_\_\_ FAX \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

SOCIAL SECURITY # \_\_\_\_\_

NAME:  Mr.  Mrs.  Ms. \_\_\_\_\_ % Owned \_\_\_\_\_

TITLE (President, VP, Treasurer, etc.) \_\_\_\_\_

PHONE \_\_\_\_\_ FAX \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

SOCIAL SECURITY # \_\_\_\_\_

NAME:  Mr.  Mrs.  Ms. \_\_\_\_\_ % Owned \_\_\_\_\_

TITLE (President, VP, Treasurer, etc.) \_\_\_\_\_

PHONE \_\_\_\_\_ FAX \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

SOCIAL SECURITY # \_\_\_\_\_

NAME:  Mr.  Mrs.  Ms. \_\_\_\_\_ % Owned \_\_\_\_\_

TITLE (President, VP, Treasurer, etc.) \_\_\_\_\_

PHONE \_\_\_\_\_ FAX \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

SOCIAL SECURITY # \_\_\_\_\_

**NOTE: Ownership breakdown must equal 100%. Applicant Information needed for all individuals with 20% or greater interest in the franchise. Attach extra sheets if necessary.**

***Wyndham Hotel Group reserves the right to approve or disapprove the Application in its sole discretion, and to withdraw its approval at any time before a Wyndham Hotel Group franchisor executes a definitive Franchise Agreement. There shall be no binding agreement or obligations on either party with regard to the Application or the proposed facility unless and until both parties have executed and delivered a definitive Franchise Agreement.***

**NOTE:** THIS APPLICATION IS INTENDED TO OBTAIN CERTAIN PRE-QUALIFYING INFORMATION. ANY OFFER TO SELL AND ANY SOLICITATION OF AN OFFER TO BUY A FRANCHISE FOR A WYNDHAM HOTEL GROUP FRANCHISOR'S CHAIN FACILITY IS MADE ONLY BY MEANS OF THE FRANCHISE DISCLOSURE DOCUMENT AND ONLY IN STATES WHERE SUCH OFFERS AND SOLICITATIONS ARE PERMITTED BY LAW.

Applicant represents and warrants to Wyndham Hotel Group that the enclosed information is true, complete, and correct as of the date of the Application, and agrees to supply such additional information, documents, statements or data as may be requested by Wyndham Hotel Group, and to supplement and correct the information supplied promptly after any earlier submission becomes inaccurate or incomplete.

As part of the application process, the undersigned, acting for any entity that is the applicant and as agent for the persons listed as owners of the entity or as participants in the proposed franchise, authorizes Wyndham Hotel Group and its affiliates to conduct a background investigation of the financial condition, general character and reputation of the applicant, its officers, partners, directors, shareholders, owners and managers. The undersigned authorizes the release of such information to Wyndham Hotel Group and its affiliates by all financial institutions, credit bureaus, other public and private reporting organizations, government, regulatory entities, employers, and other references contacted by Wyndham Hotel Group or its affiliates in connection with this application.

The undersigned further authorizes Wyndham Hotel Group to communicate to the applicant and all persons or entities named in this application via electronic mail.

\_\_\_\_\_  
DATE

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

\_\_\_\_\_  
SIGNED

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
SOCIAL SECURITY #

\_\_\_\_\_  
DATE

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

\_\_\_\_\_  
SIGNED

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
SOCIAL SECURITY #

\_\_\_\_\_  
DATE

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

\_\_\_\_\_  
SIGNED

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
SOCIAL SECURITY #

**SITE INFORMATION**

**Location is controlled by:**

- A. Title holder \_\_\_\_\_
- B. Lease. Landlord/Lesser \_\_\_\_\_  
Lessee \_\_\_\_\_
- C. Option agreement. Beneficial holder \_\_\_\_\_  
Option expiration date \_\_\_\_\_
- D. Contract to purchase. Anticipated closing date \_\_\_\_\_
- E. Receivership \_\_\_\_\_
- F. Lender \_\_\_\_\_
- G. Other. Explain \_\_\_\_\_

**FACILITY PROFILE**

**Location Type**

- Airport  Urban  Suburban  Interstate  Resort  Small Metro/Town

**Product Type** (e.g. Inn, Hotel, Plaza, etc.) \_\_\_\_\_

Size of lot \_\_\_\_\_

Total Number of Rentable Guest Rooms \_\_\_\_\_ Number of standard rooms \_\_\_\_\_

Number of suites \_\_\_\_\_ Number of parking spaces \_\_\_\_\_ Number of floors \_\_\_\_\_

Corridor Type:  Interior  Exterior  Other (please specify) \_\_\_\_\_

**Food/Beverage-Facilities/Amenities (check where applicable)**

- Restaurant (Seats )  Lounge/Bar (Seats )
- Pool  Gift Shop  Exercise Room
- Meeting Rooms (# of Rooms & Total Square Footage \_\_\_\_\_ Sq. Ft.)

Rolling 12 Months Performance:

Occ % \_\_\_\_\_ ADR \_\_\_\_\_ RevPAR \_\_\_\_\_

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**EXHIBIT C-2(a)**

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Facility: File No.: Brand:

## SynXis Subscription Agreement

This SynXis Subscription Agreement (“**Agreement**”), effective as of \_\_\_\_\_, 20\_\_\_\_ (the “**Effective Date**”), by and between \_\_\_\_\_, a \_\_\_\_\_ (“**Franchisor**”), and \_\_\_\_\_, a \_\_\_\_\_ (“**Franchisee**”), governs Franchisee’s access to and use of the SaaS Solution and Services as described herein. Franchisor and Franchisee shall each be referred to herein as a “**Party**” and together as the “**Parties**” to this Agreement.

For and in consideration of the mutual covenants, representations and promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree to the foregoing and as follows:

### 1. GENERAL

**1.1 Definitions.** Capitalized terms used herein shall have the meanings ascribed to them in this Agreement or in any Schedules attached hereto, which may be updated or supplemented by Franchisor from time to time, or as defined in Schedule 1.1. All other capitalized terms used but not defined herein shall have the meanings ascribed to them in the Franchise Agreement and are incorporated herein by reference.

**1.2 Conflicts in Interpretation.** The following order of precedence shall be followed in resolving any inconsistencies between the terms of this Agreement and the terms of any Schedules attached hereto: (a) first, the terms contained in the body of this Agreement; and ~~(b)-~~ (b) second, the terms of the Schedules attached to this Agreement, provided that no order of precedence shall be applied among such Schedules.

### 2. DESCRIPTION OF SAAS SOLUTION

**2.1 The SaaS Solution.** The “**SaaS Solution**” means the computer program, applications, features and services expressly identified on Schedule 2.1 and any and all modifications, corrections, updates and enhancements to such SaaS Solution, including any Franchisor may from time to time make available to Franchisee. The SaaS Solution does not include any Non- SaaS Solution Services as specified in Section 7.

**2.2 Elavon Hosting Services Agreement.** In order to access and use the SaaS Solution pursuant to this Agreement, on or before ten (10) days following the Effective Date, Franchisee shall execute that certain Hosted Services Agreement for Hosted Gateway Services directly with Elavon Inc., or a substantially similar agreement with an alternate vendor designated by Franchisor, (“**Elavon Agreement**”). The Elavon Agreement exclusively covers the offering provided thereunder (the “**Elavon Non-SaaS Solution Services**”).

**2.3 Implementation Services.** On a date after which Franchisee has signed both the Elavon Agreement and this Agreement, Franchisor shall use reasonable efforts to implement the SaaS Solution as described in Schedule 2.3 attached hereto (the “**Implementation Services**”) and Franchisee shall follow all of Franchisor’s instructions for preparing the Facility, at Franchisee’s sole expense, for implementation of the SaaS Solution. The SaaS

+

Solution shall be deemed accepted by Franchisee (“**Acceptance**”) immediately upon implementation of the

SaaS Solution by Franchisor (the “**Acceptance Date**”).

### 3. GRANT OF RIGHTS

**3.1 License.** Subject to payment of all applicable fees, Franchisor hereby grants to Franchisee a limited, non-transferable, non-exclusive license, to access, use and display the SaaS Solution during the Term solely for the Permitted Use and solely by End Users in accordance with the terms and conditions set forth in this Agreement.

**3.2 Limitations.** Except as provided in Section 3.1, all rights, title and interests in and to the SaaS Solution are reserved to Franchisor or to any Third Party who licenses the SaaS Solution to Franchisor or to Franchisor’s Affiliates.

**3.3 Title.** Title to and ownership of the SaaS Solution, including all Intellectual Property rights therein, is and shall remain with Franchisor, its Affiliates or any Third Party who licenses it to Franchisor. Franchisee shall at all times protect and defend, at Franchisee’s own cost and expense, Franchisor’s rights, title and interests in and to the SaaS Solution against all claims, liens and legal processes of Franchisee’s creditors.

**3.4 Restrictions.** Franchisee shall not: (a) permit any unauthorized Third Party to access or use the SaaS Solution; (b) create or attempt to create any derivative works based on the SaaS Solution; (c) copy, frame or mirror any part or content of the SaaS Solution; (d) disassemble, decompile, reverse engineer or otherwise attempt to recreate the SaaS Solution; or (e) access, use or otherwise manipulate the SaaS Solution in order to create a competitive product or service or to copy any features, functions or graphics of the SaaS Solution. Franchisor may, at its sole discretion and without prior notice to Franchisee, conduct audits of Franchisee’s Hardware, computer systems and applications, including audits by electronic and remote means, to verify conformance with this Agreement.

**3.5 Suggestions.** Any suggestions and feedback relating to the SaaS Solution or Services or relating to any desired or recommended additional features, enhancements or modifications to the SaaS Solution or Services that are provided by or through Franchisee or its Affiliates to Franchisor shall be the exclusive property of Franchisor as of the date it is offered to Franchisor and Franchisee and its Affiliates hereby assign all rights and interests in and to such suggestions and feedback to Franchisor as of the date it is offered to Franchisor.

### 4. SERVICES

**4.1 Additional Services.** Franchisor may perform additional services agreed to in writing by the parties from time to time, which may include additional fees to be agreed to by the Parties (the “**Additional Services**”).

**4.2 Rate Audit Services.** From time to time, Franchisor may provide services to Franchisee under Franchisor’s Central Rate and Inventory Support Program (the “**CRISP Services**”) consistent with Schedule 4.2 attached hereto, which may be updated or supplemented by Franchisor from time to time.

**4.3 Maintenance and Support Services.** Subject to Franchisee performing all Franchisee Responsibilities identified in Schedule 4.3 (“**Franchisee Responsibilities**”), Franchisor shall provide maintenance and support services as set forth on Schedule 4.3 attached hereto (“**Maintenance and Support Services**”).

**4.4 Access Credentials.** Franchisor, directly or indirectly, shall provide Access Credentials to Franchisee. Franchisor may, from time to time and in its sole discretion, change or require Franchisee to change Franchisee's Access Credentials. Franchisee must follow all security procedures and protocols that Franchisor may from time to time establish or modify. Franchisee shall not permit the SaaS Solution to be accessed in violation of the security procedures and protocols as set forth herein. Franchisee shall safeguard any Access Credentials that Franchisor provides to Franchisee as a trade secret, and shall reveal such information only to its End Users on a need to know basis. Franchisee shall immediately inform Franchisor if Franchisee has knowledge or a reasonable basis to believe that its Access Credentials have been lost, stolen, misappropriated or compromised in any way or manner, and Franchisee shall strictly follow Franchisor's instructions regarding any replacement Access Credentials. Franchisee shall be responsible for all access or use through its Access Credentials.

**4.5 Permitted Uses.** Franchisee shall use the SaaS Solution only for the Permitted Uses with respect to the business and operations of Franchisee as contemplated in the Franchise Agreement. Franchisee shall not load, store or otherwise use any software on or with the SaaS Solution, without Franchisor's prior written consent, as the use of such software may adversely affect the operation and functionality of the SaaS Solution and the Services. If Franchisee violates this Section, the warranties set forth in this Agreement shall be void, and Franchisee shall be solely responsible for the cost of repair or replacement of the SaaS Solution, if any.

**4.6 Franchisor's Responsibilities.** Franchisor shall: (a) use commercially reasonable efforts to make the SaaS Solution available twenty-four (24) hours a day, seven (7) days a week, except for: (i) planned downtime, or (ii) any unavailability caused by circumstances beyond Franchisor's reasonable control, including without limitation, acts of nature, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, labor strikes, Internet service provider failures or delays, or denial of service attacks; and (b) provide the SaaS Solution only in accordance with applicable laws and government regulations that govern the implementation of the SaaS Solution.

**4.7 Franchisee's Responsibilities.** Franchisee shall: (a) be fully responsible for its End Users' compliance with this Agreement; (b) be responsible for the accuracy, quality and legality of Guest Information, to the extent collected by Franchisee or its employees, agents or representatives, and for the means by which Franchisee or its employees, agents or representatives acquires Guest Information; (c) prevent unauthorized access to or use of the SaaS Solution, and notify Franchisor promptly of any such unauthorized access or use; and (d) use the SaaS Solution only in accordance with this Agreement and applicable laws and government regulations. Franchisee shall not: (i) make the SaaS Solution available to anyone other than authorized End Users; (ii) sell, resell, rent or lease the SaaS Solution; (iii) use the SaaS Solution to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of the privacy rights of any Third Party; (iv) use the SaaS Solution to store or transmit software viruses, malicious code or other harmful files; (v) interfere with or disrupt the integrity or performance of the SaaS Solution or the data of any Third Party contained therein; or (vi) attempt to gain unauthorized access to the SaaS Solution or any related networks.

## 5. FEES AND PAYMENTS

**5.1 Fees.** Franchisee shall pay all fee amounts specified in Schedule 5.1 to this Agreement for the SaaS Solution and the Services (“**Fees**”), beginning on the Acceptance Date through the duration of the Term. If Franchisee’s franchise involves the transfer of an existing Chain Facility to Franchisee or changing affiliation of the Facility from one Wyndham Hotel Group- owned franchise system to another, Franchisee will be charged a transfer fee (“**Transfer Fee**”). Franchisee may also request additional training services, which Franchisor may provide to Franchisee for an additional fee. Franchisor may charge an additional fee for services under Section 5.4, if acceleration is at Franchisee’s request.

**5.2 Payments.** Franchisor may apply any amounts received to any outstanding invoices in any order. If Franchisee does not make all payments of Fees to Franchisor when due, then, upon written notice to Franchisee, Franchisor may withhold implementation, suspend the SaaS Solution (subject to Section 5.4 below) or terminate this Agreement. All amounts due hereunder are due upon receipt of the invoice. Franchisor may increase the ongoing Fees on an annual basis by no more than five percent (5%) above the fees paid by Franchisee during the immediately preceding twelve (12) month period; provided, however, that Franchisor shall notify Franchisee no less than thirty (30) days prior to any such increase taking effect.

**5.3 Overdue Charges.** If any charges are not received from Franchisee by the due date, then, at Franchisor’s sole discretion, (a) such charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid, and/or (b) Franchisor may condition future subscription renewals on payment terms shorter than those specified in Section 5.1 above (Fees).

**5.4 Suspension of Service and Acceleration.** If any Fees owing by Franchisee under this Agreement for the SaaS Solution and Services is thirty (30) or more days overdue, Franchisor may, without limiting any other rights and remedies it may have, accelerate Franchisee’s unpaid fee obligations under this Agreement so that all such obligations become immediately due and payable, and suspend the SaaS Solution and Services to Franchisee until such amounts are paid in full. Franchisor shall give Franchisee at least seven (7) days’ prior written notice that Franchisee’s account is overdue, in accordance with Section 17.1 (Notices), before suspending the SaaS Solution and Services to Franchisee.

**5.5 Taxes.** Unless otherwise stated, Franchisor’s Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, “**Taxes**”). Franchisee is responsible for paying all Taxes associated with its purchases hereunder. If Franchisor has the legal obligation to pay or collect Taxes for which Franchisee is responsible under this section, the appropriate amount shall be invoiced to and paid by Franchisee, unless Franchisee provides Franchisor with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Franchisor is solely responsible for taxes assessable based on Franchisor’s income, property and employees.

## 6. TECHNICAL SPECIFICATION REQUIREMENTS

**6.1 Minimum Technical Requirements.** To access and use the SaaS Solution, Franchisee must use Hardware and subscribe to Communication Services that meet Franchisor’s technical specification requirements set forth on Schedule 6.1. If any service provider(s) (including without limitation, any service provider made available by Franchisor), at

Franchisee's request, attempts to integrate Hardware with the SaaS Solution or Services, Franchisor shall not be liable for any injury or damage to either the Hardware or the SaaS Solution unless such injury or damage is due to Franchisor's gross negligence or willful misconduct. For the avoidance of doubt, the warranties and support described in this Agreement do not apply to any Hardware or Communication Services.

## 7. NON-SAAS SOLUTION SERVICES PROVIDERS

**7.1 Acquisition of Non-SaaS Solution Services.** Franchisor or a Third Party may from time to time make available to Franchisee offerings designed to interoperate with the SaaS Solution ("**Non-SaaS Solution Services**"). Any acquisition by Franchisee of such Non-SaaS Solution Services, and any exchange of data between Franchisee and any Non-SaaS Solution Services provider, is solely between Franchisee and the Third Party that provides the applicable Non- SaaS Solution Services.

**7.2 No Representation or Warranty.** Franchisor does not warrant or support any Non-SaaS Solution Services. Any Non-SaaS Solution Services shall be governed exclusively by any agreement entered into between Franchisee and the Third Party that offers the applicable Non- SaaS Solution Services. If the provider of any Non-SaaS Solution Services ceases to make such Non-SaaS Solution Services available for interoperation with the SaaS Solution on reasonable terms, Franchisor may, in its sole discretion, cease providing access to such Non- SaaS Solution Services without entitling Franchisee to any refund, credit, or other compensation.

## 8. CONFIDENTIALITY

**8.1 Definition of Confidential Information.** As used herein, "**Confidential Information**" means all confidential information disclosed by a Party ("**Disclosing Party**") to the other Party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Franchisor's Confidential Information shall include the SaaS Solution and Services. Confidential Information of each Party shall include the terms and conditions of this Agreement, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such Party. However, Confidential Information shall not include any information that: (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (c) is received from a Third Party without breach of any obligation owed to the Disclosing Party; or (d) was independently developed by the Receiving Party.

**8.2 Protection of Confidential Information.** The Receiving Party shall: (a) use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care); (b) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement; and (c) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither Party shall disclose the terms of this Agreement to any Third Party other than its Affiliates and their legal counsel and accountants without the other

Party's prior written consent.

**8.3 Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

## 9. DATA PRIVACY

**9.1 Data Policies.** Franchisee shall comply with and abide by Franchisor's data policies and procedures which Franchisor may, at its sole discretion and without prior notice, update from time to time (the "**Data Policies**"). If there is a conflict between the Data Policies and applicable law, Franchisee should comply with applicable law and immediately notify Franchisor in writing of such conflict.

**9.2 Guest Information.** Franchisor and/or its Affiliate shall own all Guest Information that is within the possession of Franchisor and/or Franchisor's Affiliate or any service provider holding such information on Franchisor's or a Franchisor Affiliate's behalf, and Franchisee shall own all Guest Information that is within the possession of Franchisee or any Franchisee service provider holding such information on Franchisee's behalf. To the extent that Franchisor (including its Affiliates) and Franchisee both possess identical Guest Information, Franchisor's (including its Affiliates') and Franchisee's respective ownership rights with regard to such Guest Information shall be separate and independent from one another. Franchisee acknowledges and agrees that: (a) Franchisee shall take all commercially reasonable steps to assure the timely and accurate collection, recording, processing and transmittal of the Guest Information to the SaaS Solution at all times; and (b) with respect to Franchisee's use of the Guest Information, Franchisee shall comply with all applicable laws, Franchisor's Data Policies and any contract or promise Franchisee makes with or to any of its guests.

**9.3 Non-Owned Information.** Other than the Guest Information, Franchisee shall not use any information it obtains from the SaaS Solution, including but not limited to any information that Franchisor appends to the Guest Information ("**Non-Owned Information**"), for the benefit of any business, enterprise or activity other than the business of the Facility, and in accordance with all applicable laws and Franchisor's Data Policies. Franchisee shall not disclose, copy, assign, transfer, lease, rent, sell, donate, disseminate or otherwise commercialize any Non- Owned Information for any other purpose without Franchisor's prior written consent, which Franchisor may withhold at its sole discretion.

**9.4 Dummy Information.** Any information provided to Franchisee from the SaaS Solution may contain "dummy" information, special codes or other devices to assure compliance with this Agreement and monitor possible unauthorized use of SaaS Solution. Franchisee shall be conclusively presumed to have violated this Agreement if Franchisor discovers any unauthorized mail or contacts from information provided only to Franchisee or the Facility.

**9.5 Improper Access.** If Franchisee should obtain access to Non-Owned Information in

violation of the Data Policies or this Agreement, Franchisee shall be a trustee of that information and must act in a fiduciary capacity to protect the information from further unauthorized use or disclosure, and take all commercially reasonable efforts to return the information to Franchisor as soon as possible.

## 10. WARRANTY AND SUPPORT

**10.1 General.** Franchisor warrants that following the Acceptance Date and for a period of sixty (60) days thereafter, the SaaS Solution will perform the functions and operations in a good workmanlike manner provided that Franchisee: (a) follows Franchisor's instructions, updates and modifications; (b) makes corrections, as directed; (c) pays all applicable Fees when due; and (d) is not otherwise in default under this Agreement or the Franchise Agreement. Franchisor's sole obligation under this warranty shall be to use reasonable efforts to remedy any nonperformance of the SaaS Solution within a reasonable time after Franchisee reports such nonperformance to Franchisor.

**10.2 Intellectual Property.** Franchisor has the right to provide Franchisee with the rights granted hereunder, and, to the best of Franchisor's knowledge, the SaaS Solution does not infringe any Intellectual Property rights of any Third Party.

**10.3 Support.** Franchisor or its Affiliates will provide a toll-free telephone number for reporting any nonperformance of the SaaS Solution, and Franchisor or its Affiliates will use reasonable efforts to diagnose and remedy such nonperformance within a reasonable time after Franchisee reports such nonperformance to Franchisor. Franchisee must perform all user- required maintenance specified by the vendor of any Hardware or Communication Services, and obtain required maintenance only from an authorized service provider.

**10.4 DISCLAIMER.** THE WARRANTIES AND REMEDIES DESCRIBED IN THIS SECTION ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES AND REMEDIES FOR THIS SERVICE. THE ABOVE WARRANTIES SHALL BE RENDERED NULL AND VOID IF THE SAAS SOLUTION IS SUBJECTED TO ABUSE, MISUSE, IMPROPER INSTALLATION AT THE FACILITY OR MAINTENANCE BY UNAUTHORIZED SERVICE PERSONNEL, OR IF THE SAAS SOLUTION IS ALTERED WITHOUT FRANCHISOR'S EXPRESS CONSENT OR DIRECTION, OR USED FOR A PURPOSE NOT AUTHORIZED UNDER THIS AGREEMENT, OR IF THE SAAS SOLUTION IS DAMAGED OR DESTROYED DUE TO ACTS OF NATURE, WAR, TERRORISM, CIVIL UNREST, FIRES, NATURAL DISASTERS, OR OTHER EVENTS BEYOND FRANCHISOR'S CONTROL. EXCEPT AS PROVIDED IN THIS SECTION 10, FRANCHISOR MAKES NO WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY ABOUT THE SAAS SOLUTION OR ANY SERVICES, THEIR MERCHANTABILITY OR THEIR FITNESS FOR ANY PARTICULAR PURPOSE. FRANCHISOR MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER REGARDING THE VOLUME OF RESERVATIONS OR AMOUNT OF REVENUES THAT THE FACILITY MAY ATTAIN THROUGH THE USE OF THE SAAS SOLUTION OR IN CONNECTION WITH THE RECEIPT OF ANY SERVICES OR THAT FRANCHISEE'S

RESERVATIONS OR REVENUE WILL INCREASE. FRANCHISEE, ON BEHALF OF ITSELF, ITS SUCCESSORS AND ASSIGNS, HEREBY WAIVES, RELEASES AND RENOUNCES ANY AND ALL CLAIMS OR CAUSES OF ACTION IT MAY HAVE AGAINST FRANCHISOR, FRANCHISOR'S AFFILIATES, OR FRANCHISOR'S OR

THEIR OFFICERS, DIRECTORS OR AGENTS, ARISING OUT OF THE SAAS SOLUTION, UNLESS DUE TO FRANCHISOR'S WILLFUL MISCONDUCT.

## 11. INDEMNIFICATION

**11.1 Indemnification.** Franchisee shall indemnify, defend and hold harmless Franchisor, Franchisor's Affiliates, its licensors and their successors and assigns and each of the respective directors, officers and employees associated with them against all claims, actions or proceedings, arising out of or related to Franchisee's operation, use or non-use of the SaaS Solution, including any use of the Guest Information or any Third Party data or system security breaches and any Non-SaaS Solution Services or agreements therefor. Franchisor shall not be liable to Franchisee or any Third Party for personal injury or property loss, including but not limited to, damage to the Facility, as a result of Franchisee's operation, use or non-use of the SaaS Solution, Franchisee's receipt of Services hereunder, and/or any Third Party data or system security breaches or any Non-SaaS Solution Services or agreements therefor. Franchisee is not obligated to indemnify Franchisor for Franchisor's own gross negligence or intentional misconduct arising out of the operation, use or non-use of the SaaS Solution.

## 12. NO LIABILITY FOR INFORMATION

**12.1 No Liability.** FRANCHISOR SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES RESULTING FROM ANY INCORRECT INFORMATION GIVEN TO FRANCHISOR OR INPUT INTO THE SAAS SOLUTION BY ANY PERSON THAT IS NOT FRANCHISOR. SUPPORT OR SERVICES HEREUNDER NECESSITATED BY COMPUTER VIRUSES, OR BY ANY FAILURE OR BREACH OF FRANCHISEE'S SECURITY FOR ITS SYSTEMS OR DATA, INCLUDING, WITHOUT LIMITATION, DAMAGE CAUSED BY PERSONS LACKING AUTHORIZED ACCESS, ARE NOT COVERED UNDER THIS AGREEMENT. FRANCHISEE WAIVES ANY CLAIMS HEREUNDER AGAINST FRANCHISOR TO THE EXTENT ARISING FROM FRANCHISEE'S FAILURE TO HAVE OR MAINTAIN CURRENT VIRUS PROTECTION, OR TO THE EXTENT ARISING FROM A FAILURE OR BREACH OF FRANCHISEE'S SECURITY FOR ITS SYSTEMS OR DATA, OR AS A RESULT OF ANY UNAUTHORIZED ACCESS TO FRANCHISEE'S SYSTEMS.

## 13. DAMAGE LIMITATION

**13.1** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NEITHER FRANCHISOR NOR FRANCHISOR'S AFFILIATES SHALL BE LIABLE TO FRANCHISEE FOR SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR LOST REVENUE (COLLECTIVELY REFERRED TO AS "INDIRECT DAMAGES") IN CONNECTION WITH THE SAAS SOLUTION OR THIS AGREEMENT, EVEN IF FRANCHISOR HAD BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE REASONABLY FORESEEN SUCH DAMAGES. IN ADDITION, NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, FOR DIRECT DAMAGES CAUSED BY FRANCHISOR (AND ANY INDIRECT DAMAGES TO THE EXTENT THAT THE ABOVE LIMITATION IS NOT RECOGNIZED BY A COURT

OR OTHER AUTHORITY) ANY CLAIM SHALL BE LIMITED TO THE TOTAL AMOUNT PREVIOUSLY PAID BY FRANCHISEE TO FRANCHISOR FOR THE

PREVIOUS TWELVE (12) MONTH PERIOD. THE ABOVE LIMITATIONS ON LIABILITY APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE.

#### 14. TERM AND TERMINATION

**14.1 Term.** This Agreement shall be effective as of the Effective Date and shall continue in full force and effect until termination of the Franchise Agreement, unless earlier terminated in accordance with the terms and conditions of this Agreement (“**Term**”).

**14.2 Breach.** If any one of the following events occurs, then to the extent permitted by applicable law, Franchisor shall have the right to immediately terminate this Agreement: (a) Franchisee fails to make any payment when due under this Agreement or the Franchise Agreement and such failure continues uncured for a period of thirty (30) days (provided that Franchisor shall provide Franchisee with at least seven (7) days’ prior notice of such overdue amount); (b) Franchisee violates the privacy, security or confidentiality obligations set forth in this Agreement; (c) Franchisee breaches any other covenant, warranty or agreement under this Agreement, the Franchise Agreement or any other agreement between Franchisee and Franchisor or Franchisor’s Affiliate and such failure continues uncured for a period of thirty (30) days after Franchisee is given written notice of such failure; (d) the SaaS Solution becomes inoperable by Franchisee’s act or omission; or (e) Franchisee’s Franchise Agreement expires or terminates for any reason.

**14.3 Suspension.** In addition to the right to terminate this Agreement, Franchisor may suspend Franchisee’s access to the SaaS Solution upon the occurrence of any of the events described in Section 14.2 until Franchisee’s violation is cured and Franchisee has agreed in writing to engage in no conduct that will cause a repeat violation to occur. If Franchisee violates such a restoration agreement, Franchisor may suspend or terminate Franchisee’s access to the SaaS Solution permanently or for an indefinite period. Because Franchisor still incurs costs on Franchisee’s behalf, Franchisee must continue to pay all fees associated with services under the Franchise Agreement during any such suspension period.

**14.4 Termination For Convenience By Franchisee.** Franchisee may terminate this Agreement for convenience at any time by providing Franchisor with not less than sixty (60) days’ advance written notice.

**14.5 Termination For Convenience By Franchisor.** Franchisor may terminate this Agreement for convenience at any time provided that Franchisor shall provide Franchisee with no less than sixty (60) days’ advance notice.

**14.6 Upon Termination.** Upon termination of this Agreement: (a) Franchisee’s license granted under this Agreement ends and Franchisee shall immediately cease using the SaaS Solution; (b) Franchisee shall immediately cease using the Access Credentials that Franchisee was provided to access and use the SaaS Solution; and (c) Franchisee shall return the originals and all copies of non-owned Guest Information and other Confidential Information unencumbered to Franchisor within thirty (30) days after termination and certify to Franchisor in writing that the original and all copies have been returned. FRANCHISEE EXPRESSLY WAIVES ANY RIGHT TO NOTICE OF OR ANY HEARING WITH RESPECT TO REPOSSESSION AND CONSENT TO ENTRY INTO THE FACILITY BY FRANCHISOR’S AGENTS OR REPRESENTATIVES OR ANY PREMISES WHERE THE SAAS SOLUTION MAY BE

LOCATED AND REMOVING IT WITHOUT JUDICIAL PROCESS. If Franchisee fails or refuses to permit the peaceable entry by Franchisor’s agents to take possession of the SaaS Solution, Franchisee shall be liable for rental of the SaaS Solution at the rate of \$500.00 per week from the date that Franchisor first attempts to retake the SaaS Solution. Franchisor may, in its sole discretion, embed within the SaaS Solution various security devices that will render the SaaS Solution unusable and the data stored by the Hardware or the SaaS Solution inaccessible if this Agreement terminates.

**15. NOTICES**

**15.1 General.** All notices and other communications in connection with this Agreement shall be in writing and shall be sent to the respective Parties at the addresses set forth below or to such other addresses as may be designated by each Party in writing from time to time in accordance with this section. All notices and other communications shall be sent by registered or certified air mail, postage prepaid, or by express courier service, service fee prepaid. All notices and other communications shall be deemed received: (a) immediately upon delivery, if hand delivered; (b) five business days after depositing in the mail, if delivered by mail; or (c) the next business day after delivery to express courier service, if delivered by express courier service.

<p><b>If to Franchisor:</b>          [Franchisor ]          22 Sylvan Way          Parsippany, NJ 07054          Attn: SVP, Contracts          Administration</p>	<p><b>If to Franchisee:</b>          _____          _____</p>
<p><b>With a copy to:</b>          Wyndham Hotel Group, LLC          22 Sylvan Way          Parsippany, NJ 07054          Attn: General Counsel</p>	<p><b>With a copy to:</b>          _____          _____          _____</p>

**16. MISCELLANEOUS**

**16.1 Force Majeure.** If performance by either Party is delayed or prevented (excluding the obligation to make payments under this Agreement) because of strikes, inability to procure labor or materials, defaults of suppliers or subcontractors, delays or shortages of transportation, failure of power or communications systems, restrictive governmental laws or regulations, weather conditions, or other reasons beyond the reasonable control of the Party, then performance of such acts will be excused and the period for performance will be extended for a period equivalent to the period of such delay.

**16.2 Entire Agreement.** This Agreement and any attachments hereto, constitutes the entire, final and exclusive agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous statements, representations, negotiations, discussions, understandings and agreements, whether oral or written, with respect to the subject matter of this Agreement. Nothing in the foregoing, no provision in this or any related agreement is intended to disclaim the express representations made in the Franchise Disclosure Document.

**16.3 Franchisee's Forms.** Franchisor is not bound by any terms of Franchisee's purchase order forms or notices of acceptance which attempt to impose any conditions at variance with the terms and conditions of this Agreement or with Franchisor's invoices, standards manuals or technical specifications. Franchisor's failure to object to any provision contained in Franchisee's printed form is not a waiver of any provision of this Agreement.

**16.4 No Third Party Beneficiary.** The Agreement is intended for the sole benefit and protection of the named Parties, their successors and permitted assigns, and no Third Party shall have any cause of action or right to payments made or received herein except for any owners of any software who have licensed or authorized Franchisor to sublicense the same to Franchisee.

**16.5 Prevailing Party Attorneys' Fees.** In the event of an alleged breach of this Agreement, the prevailing Party shall be entitled to reimbursement of all of its costs and expenses, including reasonable attorneys' fees, incurred in connection with such dispute, claim or litigation, including any appeal therefrom. For purposes of this Section, the determination of which Party is to be considered the prevailing Party shall be decided by the court of competent jurisdiction that resolves such dispute, claim or litigation.

**16.6 Other Relief.** Franchisor may obtain the remedy of injunctive relief without the posting of a bond if Franchisee violates its obligations regarding confidentiality, non-disclosure, transfer or limitations on the SaaS Solution use under this Agreement. Notwithstanding anything contained in this Agreement to the contrary, each Party shall be entitled to seek injunctive or other equitable relief whenever the facts or circumstances would permit such Party to seek such equitable relief in a court of competent jurisdiction.

**16.7 Modifications.** This Agreement may not be amended, modified or rescinded except in writing, signed by both Parties, and any attempt to do so shall be void and of no effect. This Agreement may be modified or amended only pursuant to a separate writing mutually agreed upon and signed by both Parties. The Parties expressly disclaim the right to claim the enforceability or effectiveness of: (a) any oral modifications to this Agreement; and (b) any other amendments that are based on course of dealing, waiver, reliance, estoppel or other similar legal theory. The Parties expressly disclaim the right to enforce any rule of law that is contrary to the terms of this Section.

**16.8 Governing Law; Exclusive Jurisdiction.** The validity, construction and performance of this Agreement, and the legal relations among and any disputes between the Parties to this Agreement, shall be governed by and construed in accordance with the laws of the State of New Jersey, excluding that body of law applicable to conflicts of law that would apply the substantive law of another jurisdiction. Any suit or proceeding relating to this Agreement shall be brought only in the state and federal courts located in the State of New Jersey. The Parties hereby expressly consent to the exclusive personal jurisdiction of the New Jersey state courts situated in Morris County, New Jersey, and the United States District Court for the District of New Jersey. Each Party hereby waives any right it may have to assert the doctrine of forum non conveniens or to object to venue with respect to any suit or proceeding brought under this Agreement.

**16.9 Waiver.** If either Party fails to exercise any right or option at any time under this Agreement, such failure will not be deemed a waiver of the exercise of such right or option at any other time or the waiver of a different right or option. Termination of this Agreement by either Party will not waive Franchisee's obligation to make any payments to Franchisor under

this Agreement.

**16.10 Headings.** The division of this Agreement into sections and the use of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms “Agreement,” “herein,” “hereof,” “hereunder” and similar expressions refer to this Agreement and not to any particular section or other portion hereof and include any Schedules or agreements supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to sections are to sections of this Agreement.

**16.11 No Construction Against Drafter.** The Parties agree that any principle of construction or rule of law that provides that an agreement shall be construed against the drafter of the agreement in the event of any inconsistency or ambiguity in such agreement shall not apply to the terms and conditions of this Agreement.

**16.12 Counterparts.** This Agreement may be executed in one (1) or more duplicate originals, all of which together shall be deemed one and the same instrument.

**16.13 Severability.** If any provision of this Agreement is determined to be void or unenforceable, the provision shall be deemed severed from the Agreement and the remainder of this Agreement shall continue in full force and effect.

**16.14 Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the Parties, their successors and permitted assigns. Notwithstanding the above, Franchisee may not assign this Agreement without Franchisor’s express written consent.

**16.15 Mediation.** The Parties agree that all disputes arising under this Agreement or associated with the SaaS Solution may be submitted through non-binding mediation. Either party may request mediation which shall be conducted by a mutually acceptable and neutral third party organization. If the parties cannot resolve the dispute through negotiation or mediation, or choose not to negotiate or mediate, either party may pursue litigation.

**16.16 Survival.** The provisions of this Agreement that due to their content should have continuing life shall survive the termination of this Agreement.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, the Parties hereto have executed, or caused to be executed by their duly authorized representatives, this Agreement as of the Effective Date.

<b>Franchisor</b>	<b>Franchisee</b>
-------------------	-------------------

By: _____ Name: Michael Piccola Title: <del>Senior</del> <u>Executive</u> Vice President, Contracts Administration	By: _____ Name: _____ _____ _____ _____ * Title: _____ _____  *By signing this Agreement you represent that you are _____ authorized to enter _____ into this Agreement on behalf the Franchisee named herein.
--	--

**SCHEDULE 1.1**

**Definitions**

“**Access Credentials**” means any user name, identification number, password, license or security key, security token, PIN or other security code, method, technology or device used, alone or in combination, to verify End Users’ identity and authorization to access and use the SaaS Solution.

“**Affiliate**” means any and all subsidiaries, affiliates, corporations, limited liability companies, partnerships, firms, associations, businesses, organizations, and/or other entities that directly or indirectly (either presently or in the future and/or through one or more intermediaries) control, are controlled by, or are under common control with, the subject entity (with respect to Franchisor, including Franchisor’s parent company, Wyndham Worldwide Corporation) and/or such entities.

“**Communication Services**” means the Internet connectivity services Franchisee uses for purposes of accessing and using the SaaS Solution.

“**End User**” means a person who is authorized by Franchisor, or who is otherwise permitted under this Agreement, to access and use the SaaS Solution, including without limitation, Franchisee.

“**Facility**” means the Location, together with all improvements, buildings, common areas, structures, appurtenances, facilities, entry/exit rights, parking, amenities, FF&E and related rights, privileges and properties existing or to be constructed at the Location on or after the effective date of the Franchisee Agreement.

“**Franchise Agreement**” means the License or Franchise Agreement between Franchisee and Franchisor

granting to Franchisee the non-exclusive right to operate the Facility under the System.

**“Guest Information”** means any names, e-mail addresses, phone numbers, mailing addresses and other information about guests and customers of the Facility, including, without limitation, stay information, that either Franchisor or Franchisee or a person acting on behalf of one or both of them receives from or on behalf of the other or any guest or customer of the Facility or any other Third Party.

**“Hardware”** means the computer hardware, peripheral equipment, ancillary equipment, the operating system software and related documentation that Franchisee uses for purposes of accessing and using the SaaS Solution.

**“Intellectual Property”** means any and all rights existing from time to time under patent law, copyright law, trademark law, trade secret law, and any other proprietary rights laws and regulations as well as any related applications, reissuances, continuations, continuations-in-part, divisionals, renewals, extensions, and restorations thereof, now or hereafter in force and effect anywhere in the world.

**“Permitted Use”** means use of the SaaS Solution by End Users for the benefit of Franchisee solely in or for Franchisee’s business operations as contemplated for and in accordance with the Franchise Agreement.

**“Services”** shall mean Additional Services, CRISP Services and Maintenance and Support Services.

**“System”** means the comprehensive system for providing guest lodging facility services under the Marks as Franchisor specifies which, at present, includes only the following: (a) the Marks; (b) other intellectual property including Confidential Information, System Standards Manual and know-how; (c) marketing, advertising, publicity, and other promotional materials and programs; (d) System Standards; (e) training programs and materials; (f) quality assurance inspection and scoring programs; and (g) the Reservation System.

**“Third Party”** means persons and entities other than Franchisor and Franchisee.

## **SCHEDULE 2.1**

### **The SaaS Solution**

The SaaS Solution means the SynXis Property Management System, which as of the Effective Date includes the following features and functionality:

Web-based solution, which may include a local smart client

Community model hosting by Sabre Hospitality Solutions, or an affiliate thereof

Upon availability, we may also provide an interface with an automated rate audit system or create property-specific, unconstrained demand models or similar service.

In-system training materials

## **SCHEDULE 2.3**

### **Implementation Services**

Franchisor will offer Implementation Services consisting of assistance in installation/implementation of the

SaaS Solution including the following:

- Assistance with setup of two (2) Elavon tokenization terminals (to be provided in connection with execution of Elavon Agreement)
- Installation of SaaS Solution on a minimum of two (2) work stations for Facility’s front desk (Hardware to be provided by Franchisee)
- Training modules regarding features and functionality of SaaS Solution, including video demonstrations and tutorials
- Remote and optional on-site resources including training of Facility’s staff

## **SCHEDULE 4.2**

### **CRISP Services**

#### **Terms of CRISP Services**

Franchisee agrees to establish the best available rate “**BAR**”; provided, however that Franchisee acknowledges and agrees that it will retain ultimate control over all rate audit decisions. Subject to the foregoing, Franchisee explicitly authorizes Franchisor to make adjustments to the Facility’s rates, inventory and restrictions in order to comply with the Required Policies and Practices without advance notice to Franchisee. Franchisor shall not, however, change the BAR without authorization from Franchisee. In addition, Franchisee may modify or reverse any change Franchisor may make by notifying Franchisor, provided that such modification or reversal is consistent with the Required Policies and Practices. Franchisee’s general manager shall be its primary representative who shall have the authority to make rate audit decisions for the Facility, unless Franchisee designates another Facility representative in writing to Franchisor. Franchisor may communicate with Franchisee’s representative by telephone, e-mail or in another manner, and Franchisor may rely on any communication which Franchisor believes, in good faith, is from Franchisee’s representative. Any know-how, algorithms, formulae, data, recommendations, documentation, software, or other materials or information that Franchisor furnishes to Franchisee in connection with the CRISP Services shall be deemed “Confidential Information” as defined in the Franchise Agreement and shall be subject to all prohibitions on disclosure, copying or use of Confidential Information under the Franchise Agreement.

#### **Overview of CRISP Services**

##### Property Audit & Setup

In consultation with the Facility representative, simplify rates and room type structures by:

- Verifying that all required rate plans are loaded correctly in the SaaS Solution;
- Verifying that local rates are available for sale in the distribution channels selected by the Facility;
- Verifying that all brand standard rate plans are available for sale; and
- Verifying that all hotel specific data is accurate and up to date in all systems.

##### Rate & Inventory Management

Review inventory/rate visibility and consistency across all distribution channels. Key services include:

- Monitoring Facility inventory and rate settings in the SaaS Solution;
- Identifying and advising Franchisee of erroneous rate plans;
- Monitoring rates across distribution channels and checking for accuracy in third party channels; and

- Coordinating participation in key corporate accounts and marketing programs.

**SCHEDULE 4.3**

**Maintenance and Support Services**

**First Level of Support**

Franchisor will provide first-level support for the SaaS Solution, which shall include:

- SynXis Property Management System;
- Upon availability, the automated rate audit solution
- Any additional interfaces included in the SaaS Solution.

Additionally, Franchisor shall field initial inquiries related to the Elavon Non-SaaS Solution Services though support therefor shall be provided as set forth in the Elavon Agreement.

**Second Level of Support**

In the event first level support fails to resolve any maintenance or support issues for the SaaS Solution, Franchisor will provide second level support by putting Franchisee in contact with the appropriate Third Party provider of the SaaS Solution.

**Franchisee Obligations**

Franchisee shall perform all user-required maintenance procedures specified by the vendor of the specific Hardware components, and obtain required maintenance only from an authorized service provider.

**SCHEDULE 5.1**

**Fees**

<b>With up to Three Interfaces*</b>	\$593.25 per month
<b>One-Time Start-Up Fee</b>	\$3,400.00
<b>Mobile Check-in Interface Fee</b>	\$50.00 per month, once available
<b>Additional Interfaces*</b>	\$50.00 per month
<b>One-Time Transfer Fee (if applicable)</b>	\$500.00

\* **“Interface”** means any interface you may choose to include, which may be necessary for features relating to, for example, voicemail, call accounting, etc. The Elavon tokenized credit card interface and, upon availability, an interface for an automated rate audit solution are included in the monthly price listed [above and count towards the three interfaces described](#) above.

**SCHEDULE 6.1**

## Hardware Minimum Technical Specification Requirements

1. Windows ~~7.1~~ or ~~higher~~ Windows 10 version 1607 and above
2. 4GB+ of RAM (8GB recommended)
3. 2GHz processor (~~32 or 64 bit~~) or greater
4. ~~14.5~~ 14.5 GB+ Available Disk Space
5. ~~The~~ Microsoft .NET Framework Version ~~4.6.2~~ 4.7.2
6. ~~3~~ Internet Explorer 11 or Firefox ~~4.0~~ 73 must be set as the default browser on the SaaS Solution
7. ~~4~~ Screen resolution should be set to at least 1024x768
8. ~~5~~ Browser security settings using Transport Layer Security (TLS) 1.2
9. ~~6~~ To save/view reports Acrobat ~~9 or higher~~ DC is required (or compatible pdf reader)
10. ~~7~~ Elavon Fusebox connectivity from two way interface
11. ~~8~~ Elavon imaged Ingenico Swipe devices with outbound access to Fusebox
12. ~~9~~ Elavon Webapp access (manual processing pop-up window) [~~Page Intentionally Left Blank~~]

### SCHEDULE 7.1

#### Mobile Operating Platform and Emergency Safety Device

You may subscribe to the Mobile Operating Platform (“MOP”) by Lodging Controls, Inc., a Third Party, for an additional Fee. If you subscribe to MOP, then you may also choose to add the Emergency Safety Device (“ESD”) functionality of MOP for an additional Fee. To subscribe to MOP and, if applicable, the ESD functionality of MOP, check the box below and initial:

- Mobile Operating Platform Initial: \_\_\_\_\_
- Emergency Safety Device Initial: \_\_\_\_\_

#### BY SUBSCRIBING TO MOP AND, IF APPLICABLE, TO THE ESD FUNCTIONALITY OF MOP, YOU AGREE:

1. The definition of SaaS Solution in Schedule 2.1 is amended to add the following:

A Mobile Operating Platform which includes the following features and functionality:

– A cloud-based software system that provides a work-flow solution to manage recurring and real-time

tasks, such as property cleaning and maintenance

2. Schedule 5.1 (Fees) is amended to add the following:

<b><u>Mobile Operating Platform</u></b>	<u>\$0.60 per room at the Facility, per month</u>
<b><u>Emergency Safety Device (if applicable)</u></b>	<u>\$35.00 per month</u>

3. If you chose to add the ESD functionality of MOP, you acknowledge and agree that the ESD functionality of MOP is a Non-SaaS Solution under this Agreement and requires you to accept terms and conditions provided by a Third Party and our facilitation of the ESD with the SaaS Solution is an Additional Service only.

**EXHIBIT C-2(b)**

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## HOSTED SERVICES AGREEMENT FOR HOSTED GATEWAY SERVICES

This Hosted Services Agreement for Hosted Gateway Services (this "Agreement") is entered into as of the Effective Date (indicated below) by and between the entity identified below as the Customer and Elavon, Inc. ("Elavon"). This Agreement governs the Customer's receipt and use of the services described below.

This Agreement consists of this signature page and the Terms and Conditions included in Schedule A to the Hosted Services Agreement for Hosted Gateway Services, which is accessible at the URL specified below and incorporated into this Agreement by reference. Customer shall also execute the Safe-T Suite Services Addendum at Appendix A to this Agreement in connection with the tokenization and encryption services being provided thereunder:

**Schedule A - Terms and Conditions, available at <https://www.elavon.com/~media/Files/wyndham.pdf>**

**Appendix A – Safe-T Suite Services Addendum (separately executed)**

### Hosted Gateway Services

Hosted Gateway Services: As further set forth in this Agreement, Elavon will provide Customer the services described in this paragraph (the "Hosted Gateway Services"). The Hosted Gateway Services will support Payment Device authorization data and facilitate the transmission of authorization and settlement information related to Transactions to and from various Origination Points (e.g., property management systems (PMS), point of sale systems (POS) and/or other Payment Device data capture integrations) used by Customer as mutually agreed to between Elavon and Customer. The Hosted Gateway Services shall submit Transactions received from an Origination Point in accordance with this Agreement to the Destination Point (or Payment Services Entity) designated by Customer for authorization, and will return to the Origination Point the authorization response message received from such Destination Point (or Payment Services Entity). A list of Payment Devices and Transaction types supported by the Hosted Gateway Services is available from Elavon upon request.

The Hosted Gateway Services include a browser-based user interface, the Service Web Site that provides Customer with the functionality for batch management, settlement balancing and research and reporting of Transactions. System reporting shall be available to all Authorized Users via secure password and log-on access. Customer acknowledges and agrees that the system reporting and application features and services available to Customer may vary depending on the Elavon Services used by Customer.

Term: Unless otherwise terminated as set forth in the Agreement, this Agreement will remain in effect for a period of five (5) years (the "Initial Term") from the Effective Date. Following the Initial Term, this Agreement will automatically renew for a period of successive one (1) year terms (each a "Renewal Term" and together with the Initial Term, the "Term") unless a party provides written notice to the other party of its intent not to renew this Agreement at least ninety (90) days prior to the expiration of the then current term.

Territory: For purposes of this Agreement, the "Territory" shall be defined as the United States and Canada.

THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, SCHEDULE A, IS THE COMPLETE AND ENTIRE UNDERSTANDING AND AGREEMENT OF THE PARTIES REGARDING THE SUBJECT MATTER HEREOF AND SUPERSEDES ALL PRIOR WRITTEN OR ORAL AGREEMENTS, REPRESENTATIONS AND UNDERSTANDINGS WITH RESPECT THERETO, INCLUDING WITHOUT LIMITATION, ANY PURCHASE ORDER OR PROPOSAL.

[Signature on Next Page]

**IN WITNESS WHEREOF**, Customer has caused a duly authorized representative to execute this Agreement on behalf of Customer as of the date accepted and executed, as provided below.

\_\_\_\_\_,  
(the "CUSTOMER")(DBA Name)

Address:

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

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

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

Date:  
("Effective Date")

**SAFE-T SUITE SERVICES ADDENDUM TO HOSTED SERVICES AGREEMENT**

THIS SAFE-T SUITE SERVICES ADDENDUM is entered into as of the Addendum Effective Date indicated below by and between Elavon, Inc. (“Elavon”) and the party identified as “Customer” below. This SAFE-T Suite Services Addendum is an addendum to and supplements that certain Hosted Services Agreement (the “Agreement”) entered into by and between Customer and Elavon and having an Effective Date of \_\_\_\_\_. This SAFE-T Suite Services Addendum is governed by and is part of the Agreement. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement (including Schedule A thereto).

This SAFE-T Suite Services Addendum consists of this signature page, the SAFE-T Suite Terms and Conditions and the relevant Exhibits specified below for each of the selected items, each of which is incorporated in full by this reference. The SAFE-T Suite Terms and Conditions and the Exhibits are available at <https://www.elavon.com/~media/Files/wyndham.pdf>.

**Fees:** The following Exhibit shall apply to Customer in connection with this SAFE-T Suite Services Addendum:

- Exhibit A (Fees)

**SAFE-T Suite Services:** Customer will be receiving each of the following Services:

- Tokenization Services
- Encryption Services

**Encryption Services and Simplify Software and Support:** Customer will be receiving each of the following items:

- Encryption Terminal Software Licensed from Elavon (*For this item, Exhibit C shall apply to Customer in connection with this SAFE-T Suite Services Addendum.*)
- Simplify License and Support (*For this item, Exhibit F shall apply to Customer in connection with this SAFE-T Suite Services Addendum.*)

**Terminal Lease or Purchase:** Select whether Customer elects to lease or purchase the terminals:

- Lease – Customer elects to lease the terminals (*if this box is checked, Exhibit D shall apply to Customer in connection with this SAFE-T Suite Services Addendum.*)
- Purchase – Customer elects to purchase the terminals (*if this box is checked, Exhibit E shall apply to Customer in connection with this SAFE-T Suite Services Addendum.*)

**Terminal Type and Bundle Selection:** Please select the applicable option:

- OPTION 1: Ingenico iPP320 EMV Terminal, Simplify License and Support, Voltage Encryption, Cabling, Power Supply, Commbox, Deployment (when “Lease” is selected above, the Premium Advanced Exchange Program and Premium Repair Warranty Program are included in the bundle).
- OPTION 2: Ingenico ISC250 EMV Terminal, Simplify License and Support, Voltage Encryption, Cabling, Power Supply, Commbox, Deployment (when “Lease” is selected above, the Premium Advanced Exchange Program and Premium Repair Warranty Program are included in the bundle).

**Number of Terminals:** Please select the number of terminals (minimum of 2 terminals is required; if the number of terminals is not specified, 2 terminals will be deemed to have been selected):

- 2 Terminals
- 3 Terminals
- 4 Terminals
- More than 4 Terminals (insert number of Terminals): \_\_\_\_\_

**Optional Additional Warranty Programs:** This applies for the “Purchase” election only (for the “Lease” election, these items are included in the bundle).

- Premium Advanced Exchange Program and Premium Repair Warranty Program

THIS SAFE-T SUITE SERVICES ADDENDUM, INCLUDING THE SAFE-T SUITE TERMS AND CONDITIONS AND EXHIBITS INCORPORATED HEREIN, IS THE COMPLETE AND ENTIRE UNDERSTANDING OF THE PARTIES REGARDING THE SUBJECT MATTER HEREOF AND SUPERSEDES ALL PRIOR WRITTEN OR ORAL AGREEMENTS, REPRESENTATIONS AND UNDERSTANDINGS WITH RESPECT THERETO, INCLUDING, WITHOUT LIMITATION, ANY PURCHASE ORDER OR PROPOSAL.

**IN WITNESS WHEREOF**, Customer has caused a duly authorized representative to execute this SAFE-T Suite Services Addendum on behalf of Customer as of the Addendum Effective Date, as provided below.

\_\_\_\_\_  
"CUSTOMER" (DBA Name)

By: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_  
(Printed Name)

Title:

Date: ("Addendum Effective Date")

**EXHIBIT C-3**

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## GENERAL TERMS

Oracle General Terms Reference:

(To be completed by Oracle)

These General Terms (these “General Terms”) are between Oracle America, Inc. (“Oracle”) and the individual or entity identified below in the signature block. To place orders subject to these General Terms, at least one Schedule (as defined below) must be incorporated into these General Terms. If a term is relevant only to a specific Schedule, that term will apply only to that Schedule if and/or when that Schedule is incorporated into these General Terms.

### 1. DEFINITIONS

1.1 “**Hardware**” refers to the computer equipment, including components, options and spare parts.

1.2 “**Integrated Software**” refers to any software or programmable code that is (a) embedded or integrated in the Hardware and enables the functionality of the Hardware or (b) specifically provided to You by Oracle under Schedule H and specifically listed (i) in accompanying documentation, (ii) on an Oracle webpage or (iii) via a mechanism that facilitates installation for use with Your Hardware. Integrated Software does not include and You do not have rights to (a) code or functionality for diagnostic, maintenance, repair or technical support services; or (b) separately licensed applications, operating systems, development tools, or system management software or other code that is separately licensed by Oracle. For specific Hardware, Integrated Software includes Integrated Software Options (as defined in Schedule H) separately ordered.

1.3 “**Master Agreement**” refers to these General Terms (including any amendments thereto) and all Schedule(s) incorporated into the Master Agreement (including any amendments to those incorporated Schedule(s)). The Master Agreement governs Your use of the Products and Service Offerings ordered from Oracle or an authorized reseller.

1.4 “**Operating System**” refers to the software that manages Hardware for Programs and other software.

1.5 “**Products**” refers to Programs, Hardware, Integrated Software and Operating System.

1.6 “**Programs**” refers to (a) the software owned or distributed by Oracle that You have ordered under Schedule P, (b) Program Documentation and (c) any Program updates acquired through technical support. Programs do not include Integrated Software or any Operating System or any software release prior to general availability (e.g., beta releases).

1.7 “**Program Documentation**” refers to the Program user manual and Program installation manuals. Program Documentation may be delivered with the Programs. You may access the documentation online at <http://oracle.com/documentation>.

1.8 “**Schedule**” refers to all Oracle Schedules to these General Terms as identified in Section 2.

1.9 “**Separate Terms**” refers to separate license terms that are specified in the Program Documentation, readmes or notice files and that apply to Separately Licensed Third Party Technology.

1.10 “**Separately Licensed Third Party Technology**” refers to third party technology that is licensed under Separate Terms and not under the terms of the Master Agreement.

1.11 “**Service Offerings**” refers to technical support, education, hosted/outsourcing services, cloud services, consulting, advanced customer support services, or other services which You have ordered. Such Service Offerings are further described in the applicable Schedule.

1.12 “**You**” and “**Your**” refers to the individual or entity that has executed these General Terms.

### 2. MASTER AGREEMENT TERM AND APPLICABLE SCHEDULES

Orders may be placed under the Master Agreement for five years from the Effective Date (indicated below in Section 17). As of the Effective Date, the following Schedules are incorporated into the Master Agreement: Schedule H – Hardware, Schedule P – Program, and Schedule C – Cloud Services.

The Schedules set forth terms and conditions that apply specifically to certain types of Oracle offerings which may be different than, or in addition to, these General Terms.

### **3. SEGMENTATION**

The purchase of any Products and related Service Offerings or other Service Offerings are all separate offers and separate from any other order for any Products and related Service Offerings or other Service Offerings You may receive or have received from Oracle. You understand that You may purchase any Products and related Service Offerings or other Service Offerings independently of any other Products or Service Offerings. Your obligation to pay for (a) any Products and related Service Offerings is not contingent on performance of any other Service Offerings or delivery of any other Products or (b) other Service Offerings is not contingent on delivery of any Products or performance of any additional/other Service Offerings. You acknowledge that You have entered into the purchase without reliance on any financing or leasing arrangement with Oracle or its affiliate.

### **4. OWNERSHIP**

Oracle or its licensors retain all ownership and intellectual property rights to the Programs, Operating System, Integrated Software and anything developed or delivered under the Master Agreement.

### **5. INDEMNIFICATION**

5.1 Subject to sections 5.5, 5.6 and 5.7 below, if a third party makes a claim against either You or Oracle (“Recipient” which may refer to You or Oracle depending upon which party received the Material), that any information, design, specification, instruction, software, data, hardware, or material (collectively, “Material”) furnished by either You or Oracle (“Provider” which may refer to You or Oracle depending on which party provided the Material) and used by the Recipient infringes the third party’s intellectual property rights, the Provider, at the Provider’s sole cost and expense, will defend the Recipient against the claim and indemnify the Recipient from the damages, liabilities, costs and expenses awarded by the court to the third party claiming infringement or the settlement agreed to by the Provider, if the Recipient does the following:

- a. notifies the Provider promptly in writing, not later than 30 days after the Recipient receives notice of the claim (or sooner if required by applicable law);
- b. gives the Provider sole control of the defense and any settlement negotiations; and
- c. gives the Provider the information, authority and assistance the Provider needs to defend against or settle the claim.

5.2 If the Provider believes or it is determined that any of the Material may have violated a third party’s intellectual property rights, the Provider may choose to either modify the Material to be non-infringing (while substantially preserving its utility or functionality) or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, the Provider may end the license for, and require return of, the applicable Material and refund any fees the Recipient may have paid to the other party for it and, if Oracle is the Provider of an infringing Program, any unused, prepaid technical support fees You have paid to Oracle for the license of the infringing Program. If such return materially affects Oracle’s ability to meet its obligations under the relevant order, then Oracle may, at its option and upon 30 days prior written notice, terminate the order.

5.3 Notwithstanding the provisions of section 5.2 and with respect to hardware only, if the Provider believes or it is determined that the hardware (or portion thereof) may have violated a third party’s intellectual property rights, the Provider may choose to either replace or modify the hardware (or portion thereof) to be non-infringing (while substantially preserving its utility or functionality) or obtain a right to allow for continued use, or if these alternatives are not commercially reasonable, the Provider may remove the applicable hardware (or portion thereof) and refund the net book value and, if Oracle is the Provider of infringing Hardware, any unused, prepaid technical support fees You have paid to Oracle for the Hardware.

5.4 In the event that the Material is Separately Licensed Third Party Technology and the associated Separate Terms do not allow termination of the license, in lieu of ending the license for the Material, Oracle may end the license for, and require return of, the Program associated with that Separately Licensed Third Party Technology and shall refund any Program license fees You may have paid to Oracle for the Program license and any unused, prepaid technical support fees You have paid to Oracle for the Program license.

5.5 Provided You are a current subscriber to Oracle technical support services for the Operating System (e.g., Oracle Premier Support for Systems, Oracle Premier Support for Operating Systems or Oracle Linux Premier Support), then for the period of time for which You were a subscriber to the applicable Oracle technical support services (a) the phrase “Material” above in section 5.1 shall include the Operating System and the Integrated Software and any Integrated Software Options that You have licensed and (b) the phrase “Program(s)” in this section 5 is replaced by the phrase “Program(s) or the Operating System or Integrated Software or Integrated Software Options (as applicable)” (i.e., Oracle will not indemnify You for Your use of the Operating System and/or Integrated Software and/or Integrated Software Options when You were not a subscriber to the applicable Oracle technical support services). Notwithstanding the foregoing, with respect solely to the Linux operating system, Oracle will not indemnify You for Materials that are not part of the Oracle Linux covered files as defined at <http://www.oracle.com/us/support/library/enterprise-linux-indemnification-069347.pdf>.

5.6 The Provider will not indemnify the Recipient if the Recipient alters Material or uses it outside the scope of use identified in the Provider’s user documentation or if the Recipient uses a version of Material which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of Material which was provided to the Recipient, or if the Recipient continues to use the applicable Material after the end of the license to use that Material. The Provider will not indemnify the Recipient to the extent that an infringement claim is based upon any information, design, specification, instruction, software, data, or material not furnished by the Provider. Oracle will not indemnify You for any portion of an infringement claim that is based upon the combination of any Material with any products or services not provided by Oracle. Solely with respect to Separately Licensed Third Party Technology that is part of or is required to use a Program and that is used: (a) in unmodified form; (b) as part of or as required to use a Program; and (c) in accordance with the license grant for the relevant Program and all other terms and conditions of the Master Agreement, Oracle will indemnify You for infringement claims for Separately Licensed Third Party Technology to the same extent as Oracle is required to provide infringement indemnification for the Program under the terms of the Master Agreement. Oracle will not indemnify You for infringement caused by Your actions against any third party if the Program(s) as delivered to You and used in accordance with the terms of the Master Agreement would not otherwise infringe any third party intellectual property rights. Oracle will not indemnify You for any intellectual property infringement claim(s) known to You at the time license rights are obtained.

5.7 This section provides the parties’ exclusive remedy for any infringement claims or damages.

## **6. TERMINATION**

6.1 If either of us breaches a material term of the Master Agreement and fails to correct the breach within 30 days of written specification of the breach, then the breaching party is in default and the non-breaching party may terminate the Master Agreement. If Oracle terminates the Master Agreement as specified in the preceding sentence, You must pay within 30 days all amounts which have accrued prior to such termination, as well as all sums remaining unpaid for Products ordered and/or Service Offerings received under the Master Agreement plus related taxes and expenses. Except for nonpayment of fees, the non-breaching party may agree in its sole discretion to extend the 30 day period for so long as the breaching party continues reasonable efforts to cure the breach. You agree that if You are in default under the Master Agreement, You may not use those Products or Service Offerings ordered.

6.2 If You have used a contract with Oracle or an affiliate of Oracle to pay for the fees due under an order and You are in default under that contract, You may not use the Products and/or Service Offerings that are subject to such contract.

6.3 Provisions that survive termination or expiration are those relating to limitation of liability, infringement indemnity, payment and others which by their nature are intended to survive.

## **7. FEES AND TAXES; PRICING, INVOICING AND PAYMENT OBLIGATION**

7.1 All fees payable to Oracle are due within 30 days from the invoice date. You agree to pay any sales, value-added or other similar taxes imposed by applicable law that Oracle must pay based on the Products and/or Service Offerings You ordered, except for taxes based on Oracle’s income. Also, You will reimburse Oracle for reasonable expenses related to providing Service Offerings.

7.2 You understand that You may receive multiple invoices for the Products and Service Offerings You ordered. Invoices will be submitted to You pursuant to Oracle’s Invoicing Standards Policy, which may be accessed at <http://oracle.com/contracts>.

## 8. NONDISCLOSURE

8.1 By virtue of the Master Agreement, the parties may have access to information that is confidential to one another (“**Confidential Information**”). We each agree to disclose only information that is required for the performance of obligations under the Master Agreement. Confidential Information shall be limited to the terms and pricing under the Master Agreement and all information clearly identified as confidential at the time of disclosure.

8.2 A party’s Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) was in the other party’s lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (d) is independently developed by the other party.

8.3 We each agree not to disclose each other’s Confidential Information to any third party other than those set forth in the following sentence for a period of three years from the date of the disclosing party’s disclosure of the Confidential Information to the receiving party. We may disclose Confidential Information only to those employees or agents or subcontractors who are required to protect it against unauthorized disclosure in a manner no less protective than under the Master Agreement. Nothing shall prevent either party from disclosing the terms or pricing under the Master Agreement or orders submitted under the Master Agreement in any legal proceeding arising from or in connection with the Master Agreement or disclosing the Confidential Information to a governmental entity as required by law.

## 9. ENTIRE AGREEMENT

9.1 You agree that the Master Agreement and the information which is incorporated into the Master Agreement by written reference (including reference to information contained in a URL or referenced policy), together with the applicable order, are the complete agreement for the Products and/or Service Offerings ordered by You and supersede all prior or contemporaneous agreements or representations, written or oral, regarding such Products and/or Service Offerings.

9.2 It is expressly agreed that the terms of the Master Agreement and any Oracle order shall supersede the terms in any purchase order, procurement internet portal or any other similar non-Oracle document and no terms included in any such purchase order, portal or other non-Oracle document shall apply to the Products and/or Service Offerings ordered. In the event of inconsistencies between the terms of any Schedule and these General Terms, the Schedule shall take precedence. In the event of any inconsistencies between the terms of an order and the Master Agreement, the order shall take precedence. The Master Agreement and orders may not be modified and the rights and restrictions may not be altered or waived except in a writing signed or accepted online through the Oracle Store by authorized representatives of You and of Oracle. Any notice required under the Master Agreement shall be provided to the other party in writing.

## 10. LIMITATION OF LIABILITY

**NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF PROFITS, REVENUE, DATA, OR DATA USE. ORACLE’S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THE MASTER AGREEMENT OR YOUR ORDER, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL BE LIMITED TO THE AMOUNT OF THE FEES YOU PAID ORACLE UNDER THE SCHEDULE GIVING RISE TO THE LIABILITY, AND IF SUCH DAMAGES RESULT FROM YOUR USE OF PRODUCTS OR SERVICE OFFERINGS, SUCH LIABILITY SHALL BE LIMITED TO THE FEES YOU PAID ORACLE FOR THE DEFICIENT PRODUCT OR SERVICE OFFERINGS GIVING RISE TO THE LIABILITY.**

## 11. EXPORT

Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the Products. You agree that such export laws govern Your use of the Products (including technical data) and any Service Offerings deliverables provided under the Master Agreement, and You agree to comply with all such export laws and regulations (including “deemed export” and “deemed re-export” regulations). You agree that no data, information, Product and/or materials resulting from Service Offerings (or direct product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation, or development of missile technology.

## 12. FORCE MAJEURE

Neither of us shall be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; pandemic, electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export, import or other license); other event outside the reasonable control of the obligated party. We both will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than 30 days, either of us may cancel unperformed Service Offerings and affected orders upon written notice. This section does not excuse either party's obligation to take reasonable steps to follow its normal disaster recovery procedures or Your obligation to pay for Products and Service Offerings ordered or delivered.

### **13. GOVERNING LAW AND JURISDICTION**

The Master Agreement is governed by the laws of the State of California and You and Oracle agree to submit to the exclusive jurisdiction of, and venue in, the courts in San Francisco or Santa Clara counties in California in any dispute arising out of or relating to the Master Agreement.

### **14. NOTICE**

If You have a dispute with Oracle or if You wish to provide a notice under the Indemnification section of these General Terms, or if You become subject to insolvency or other similar legal proceedings, You will promptly send written notice to: Oracle America, Inc., 500 Oracle Parkway Redwood Shores, CA 94065, Attention: General Counsel, Legal Department.

### **15. ASSIGNMENT**

You may not assign the Master Agreement or give or transfer the Programs, Operating System, Integrated Software and/or any Service Offerings or an interest in them to another individual or entity. If You grant a security interest in the Programs, Operating System, Integrated Software and/or any Service Offerings deliverables, the secured party has no right to use or transfer the Programs, Operating System, Integrated Software and/or any Service Offerings deliverables, and if You decide to finance Your acquisition of any Products and/or any Service Offerings, You will follow Oracle's policies regarding financing which are at <http://oracle.com/contracts>. The foregoing shall not be construed to limit the rights You may otherwise have with respect to the Linux operating system, third party technology or Separately Licensed Third Party Technology licensed under open source or similar license terms.

### **16. OTHER**

16.1 Oracle is an independent contractor and we agree that no partnership, joint venture, or agency relationship exists between us. We each will be responsible for paying our own employees, including employment related taxes and insurance.

16.2 If any term of the Master Agreement is found to be invalid or unenforceable, the remaining provisions will remain effective and such term shall be replaced with a term consistent with the purpose and intent of the Master Agreement.

16.3 Except for actions for nonpayment or breach of Oracle's proprietary rights, no action, regardless of form, arising out of or relating to the Master Agreement may be brought by either party more than two years after the cause of action has accrued.

16.4 Products and Service Offerings deliverables are not designed for or specifically intended for use in nuclear facilities or other hazardous applications. You agree that it is Your responsibility to ensure safe use of Products and Service Offerings deliverables in such applications.

16.5 If requested by an authorized reseller on Your behalf, You agree Oracle may provide a copy of the Master Agreement to the authorized reseller to enable the processing of Your order with that authorized reseller.

16.6 The Uniform Computer Information Transactions Act does not apply to the Master Agreement or orders placed under it. You understand that Oracle's business partners, including any third party firms retained by You to provide consulting services, are independent of Oracle and are not Oracle's agents. Oracle is not liable for nor bound by any acts of any such business partner unless (i) the business partner is providing services as an Oracle subcontractor in furtherance of an order placed under the Master Agreement and (ii) only to the same extent as Oracle would be responsible for the performance of Oracle resources under that order.

16.7 For software (i) that is part of Programs, Operating Systems, Integrated Software or Integrated Software Options (or all four) and (ii) that You receive from Oracle in binary form and (iii) that is licensed under an open source license that gives You the right to receive the source code for that binary, You may obtain a copy of the applicable source code from <https://oss.oracle.com/sources/> or <http://www.oracle.com/goto/opensourcecode>. If the source code for such software was not provided to You with the binary, You may also receive a copy of the source code on physical media by submitting a written request pursuant to the instructions in the "Written Offer for Source Code" section of the latter website.

16.8 Oracle may refer to You as an Oracle customer of the ordered Products and Service Offerings in sales presentations, marketing vehicles and activities.

**17. MASTER AGREEMENT EFFECTIVE DATE**

The Effective Date of the Master Agreement is \_\_\_\_\_. (DATE TO BE COMPLETED BY ORACLE)

<i>(To be completed by Oracle)</i>		<b>Oracle America, Inc.</b>	
<b>Signature</b>	_____	<b>Signature</b>	_____
<b>Name</b>	_____	<b>Name</b>	_____
<b>Title</b>	_____	<b>Title</b>	_____
<b>Signature Date</b>	_____	<b>Signature Date</b>	_____

**Oracle America, Inc. ("Oracle")**

**500 Oracle Parkway**

**Redwood Shores, CA 94065**

This Hardware Schedule (this "Schedule H") is a Schedule to the General Terms referenced above. The General Terms and this Schedule H, together with any other Schedules that reference the General Terms, are the Master Agreement. This Schedule H shall coterminate with the General Terms.

## 1. DEFINITIONS

1.1 "**Commencement Date**" for the Hardware, Operating System and Integrated Software refers to the date the Hardware is delivered. For Integrated Software Options, the Commencement Date refers to the date the Hardware is delivered or the effective date of the order if shipment of Hardware is not required.

1.2 "**Integrated Software Options**" refers to software or programmable code embedded in, installed on, or activated on the Hardware that requires one or more unit licenses that You must separately order and agree to pay additional fees. Not all Hardware contains Integrated Software Options; please refer to the Oracle Integrated Software Options License Definitions, Rules and Metrics accessible at <http://oracle.com/contracts> (the "Integrated Software Options License Rules") for the specific Integrated Software Options that may apply to specific Hardware. Oracle reserves the right to designate new software features as Integrated Software Options in subsequent releases and that designation will be specified in the applicable documentation and in the Integrated Software Options License Rules.

1.3 Capitalized terms used but not defined in this Schedule H have the meanings set forth in the General Terms.

## 2. RIGHTS GRANTED

2.1 Your Hardware order consists of the following items: Operating System (as defined in Your configuration), Integrated Software and all Hardware equipment (including components, options and spare parts) specified on the applicable order. Your Hardware order may also include Integrated Software Options. Integrated Software Options may not be activated or used until You separately order them and agree to pay additional fees.

2.2 You have the right to use the Operating System delivered with the Hardware subject to the terms of the license agreement(s) delivered with the Hardware. Current versions of the license agreements are located at <http://oracle.com/contracts>. You are licensed to use the Operating System and any Operating System updates acquired through technical support only as incorporated in, and as part of, the Hardware.

2.3 You have the limited, non-exclusive, royalty free, non-transferable, non-assignable right to use Integrated Software delivered with the Hardware subject to the terms of this Schedule H and the applicable documentation. You are licensed to use that Integrated Software and any Integrated Software updates acquired through technical support only as incorporated in, and as part of, the Hardware. You have the limited, non-exclusive, royalty free, non-transferable, non-assignable right to use Integrated Software Options that You separately order subject to the terms of this Schedule H, the applicable documentation and the Integrated Software Options License Rules; the Integrated Software Options License Rules are incorporated in and made a part of this Schedule H. You are licensed to use those Integrated Software Options and any Integrated

Software Options updates acquired through technical support only as incorporated in, and as part of, the Hardware. To fully understand Your license right to any Integrated Software Options that You separately order, You need to review the Integrated Software Options License Rules. In the event of any conflict between the Master Agreement and the Integrated Software Options License Rules, the Integrated Software Options License Rules shall take precedence.

2.4 The Operating System or Integrated Software or Integrated Software Options (or all three) may include separate works, identified in a readme file, notice file or the applicable documentation, which are licensed under open source or similar license terms; Your rights to use the Operating System, Integrated Software and Integrated Software Options under such terms are not restricted in any way by the Master Agreement including this Schedule H. The appropriate terms associated with such separate works can be found in the readme files, notice files or in the documentation accompanying the Operating System, Integrated Software, and Integrated Software Options.

2.5 Upon payment for Hardware-related Service Offerings, You have the non-exclusive, non-assignable, royalty free, perpetual, limited right to use for Your internal business operations anything developed by Oracle and delivered to You under this Schedule H (“deliverables”); however, certain deliverables may be subject to additional license terms provided in the order.

### **3. RESTRICTIONS**

3.1 You may only make copies of the Operating System, Integrated Software and Integrated Software Options for archival purposes, to replace a defective copy, or for program verification. You shall not remove any copyright notices or labels on the Operating System, Integrated Software or Integrated Software Options. You shall not decompile or reverse engineer (unless required by law for interoperability) the Operating System or Integrated Software.

3.2 You acknowledge that to operate certain Hardware, Your facility must meet a minimum set of requirements as described in the Hardware documentation. Such requirements may change from time to time, as communicated by Oracle to You in the applicable Hardware documentation.

3.3 The prohibition on the assignment or transfer of the Operating System or any interest in it under section 15 of the General Terms shall apply to all Operating Systems licensed under this Schedule H, except to the extent that such prohibition is rendered unenforceable under applicable law.

### **4. TRIAL PROGRAMS**

Oracle may include additional Programs on the Hardware (e.g., Exadata Storage Server software). You are not authorized to use those Programs unless You have a license specifically granting You the right to do so; however, You may use those additional Programs for trial, non-production purposes for up to 30 days from the date of delivery provided that You may not use the trial Programs to provide or attend third party training on the content and/or functionality of the Programs. To use any of these Programs after the 30 day trial period, You must obtain a license for such Programs from Oracle or an authorized reseller. If You decide not to obtain a license for any Program after the 30 day trial period, You will cease using and promptly delete any such Programs from Your computer systems. Programs licensed for trial purposes are provided “as is” and Oracle does not provide technical support or offer any warranties for these Programs.

### **5. TECHNICAL SUPPORT**

5.1 Oracle Hardware and Systems Support acquired with Your order may be renewed annually and, if You renew Oracle Hardware and Systems Support for the same systems and same configurations, for the first and second renewal years the technical support fee will not increase by more than 3% over the prior year’s fees.

5.2 If ordered, Oracle Hardware and Systems Support (including first year and all subsequent years) is provided under Oracle’s Hardware and Systems Support Policies in effect at the time the technical support services are provided. You agree to cooperate with Oracle and provide the access, resources, materials, personnel, information, and consents that Oracle may require in order to perform the technical support

services. The Oracle Hardware and Systems Support Policies are incorporated in this Schedule H and are subject to change at Oracle's discretion; however, Oracle will not materially reduce the level of technical support services provided during the period for which fees for Oracle Hardware and Systems Support have been paid. You should review the policies prior to entering into the order for technical support services. You may access the current version of the Oracle Hardware and Systems Support Policies at <http://oracle.com/contracts>.

5.3 Oracle Hardware and Systems Support is effective upon the Commencement Date of the Hardware or upon the effective date of the order if shipment of Hardware is not required.

## **6. HARDWARE-RELATED SERVICE OFFERINGS**

In addition to technical support, You may order a limited number of Hardware-related Service Offerings under this Schedule H as listed in the Hardware-Related Service Offerings document, which is at <http://oracle.com/contracts>. You agree to provide Oracle with all information, access and full good faith cooperation reasonably necessary to enable Oracle to deliver these Service Offerings and You will perform the actions identified in the order as Your responsibility. If while performing these Service Offerings Oracle requires access to another vendor's products that are part of Your system, You will be responsible for acquiring all such products and the appropriate license rights necessary for Oracle to access such products on Your behalf. Service Offerings provided may be related to Your license to use Products owned or distributed by Oracle which You acquire under a separate order. The agreement referenced in that order shall govern Your use of such Products.

## **7. WARRANTIES, DISCLAIMERS AND EXCLUSIVE REMEDIES**

7.1 Oracle provides a limited warranty ("Oracle Hardware Warranty") for (i) the Hardware, (ii) the Operating System and the Integrated Software and the Integrated Software Options, and (iii) the Operating System media, the Integrated Software media and the Integrated Software Options media ("media", and (i), (ii) and (iii) collectively, "Hardware Items"). Oracle warrants that the Hardware will be free from, and using the Operating System and Integrated Software and Integrated Software Options will not cause in the Hardware, material defects in materials and workmanship for one year from the date the Hardware is delivered to You. Oracle warrants that the media will be free from material defects in materials and workmanship for a period of 90 days from the date the media is delivered to You. You may access a more detailed description of the Oracle Hardware Warranty at <http://www.oracle.com/us/support/policies/index.html> ("Warranty Web Page"). Any changes to the Oracle Hardware Warranty specified on the Warranty Web Page will not apply to Hardware or media ordered prior to such change. The Oracle Hardware Warranty applies only to Hardware and media that have been (1) manufactured by or for Oracle, and (2) sold by Oracle (either directly or by an Oracle-authorized distributor). The Hardware may be new or like new. The Oracle Hardware Warranty applies to Hardware that is new and Hardware that is like-new which has been remanufactured and certified for warranty by Oracle.

7.2 Oracle also warrants that technical support services and Hardware-related Service Offerings (as referenced in section 6 above) ordered and provided under this Schedule H will be provided in a professional manner consistent with industry standards. You must notify Oracle of any technical support service or Hardware-related Service Offerings warranty deficiencies within 90 days from performance of the deficient technical support service or Hardware-related Service Offerings.

**7.3 FOR ANY BREACH OF THE ABOVE WARRANTIES, YOUR EXCLUSIVE REMEDY AND ORACLE'S ENTIRE LIABILITY SHALL BE: (i) THE REPAIR OR, AT ORACLE'S OPTION AND EXPENSE, REPLACEMENT OF THE DEFECTIVE HARDWARE ITEM, OR IF SUCH REPAIR OR REPLACEMENT IS NOT REASONABLY ACHIEVABLE, THE REFUND OF THE FEES YOU PAID ORACLE FOR THE DEFECTIVE HARDWARE ITEM AND THE REFUND OF ANY UNUSED PREPAID TECHNICAL SUPPORT FEES YOU HAVE PAID FOR THE DEFECTIVE HARDWARE ITEM; OR (ii) THE REPERFORMANCE OF THE DEFICIENT HARDWARE-RELATED SERVICE OFFERINGS; OR, IF ORACLE CANNOT SUBSTANTIALLY CORRECT THE DEFICIENCY IN A COMMERCIALY REASONABLE MANNER, YOU MAY END THE DEFICIENT HARDWARE-RELATED SERVICE OFFERINGS AND RECOVER THE FEES YOU PAID TO ORACLE FOR THE DEFICIENT HARDWARE-RELATED SERVICE OFFERINGS. TO THE EXTENT NOT PROHIBITED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS WITH RESPECT TO THE ABOVE**

**ITEMS, INCLUDING ANY WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

7.4 Replacement units for defective parts or Hardware Items replaced under the Oracle Hardware Warranty may be new or like new quality. Such replacement units assume the warranty status of the Hardware into which they are installed and have no separate or independent warranty of any kind. Title in all defective parts or Hardware Items shall transfer back to Oracle upon removal from the Hardware.

**7.5 ORACLE DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF THE HARDWARE, OPERATING SYSTEM, INTEGRATED SOFTWARE, INTEGRATED SOFTWARE OPTIONS OR MEDIA.**

7.6 No warranty will apply to any Hardware, Operating System, Integrated Software, Integrated Software Options or media which has been:

- a. modified, altered or adapted without Oracle's written consent (including modification or removal of the Oracle/Sun serial number tag on the Hardware);
- b. maltreated or used in a manner other than in accordance with the relevant documentation;
- c. repaired by any third party in a manner which fails to meet Oracle's quality standards;
- d. improperly installed by any party other than Oracle or an authorized Oracle certified installation partner;
- e. used with equipment or software not covered by an Oracle warranty, to the extent that the problems are attributable to such use;
- f. relocated, to the extent that problems are attributable to such relocation;
- g. used directly or indirectly in supporting activities prohibited by U.S. or other national export regulations;
- h. used by parties appearing on the then-current U.S. export exclusion list;
- i. relocated to countries subject to U.S. trade embargo or restrictions;
- j. used remotely to facilitate any activities for parties or in the countries referenced in 7.6(h) and 7.6(i) above; or
- k. purchased from any entity other than Oracle or an Oracle authorized reseller.

7.7 The Oracle Hardware Warranty does not apply to normal wear of the Hardware or media. The Oracle Hardware Warranty is extended only to the original purchaser or original lessee of the Hardware and may be void in the event that title to the Hardware is transferred to a third party.

**8. AUDIT**

Upon 45 days written notice, Oracle may audit Your use of the Operating System, Integrated Software and Integrated Software Options. You agree to cooperate with Oracle's audit and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with Your normal business operations. You agree to pay within 30 days of written notification any fees applicable to Your use of the Operating System, Integrated Software and Integrated Software Options in excess of Your license rights. If You do not pay, Oracle can end (a) Service Offerings (including technical support) related to the Operating System, Integrated Software and Integrated Software Options, (b) licenses of the Operating System,

Integrated Software and Integrated Software Options ordered under this Schedule H and related agreements and/or (c) the Master Agreement. You agree that Oracle shall not be responsible for any of Your costs incurred in cooperating with the audit.

## **9. ORDER LOGISTICS**

### **9.1 Delivery, Installation and Acceptance of Hardware**

9.1.1 You are responsible for installation of the Hardware unless You purchase installation services from Oracle for that Hardware.

9.1.2 Oracle will deliver the Hardware in accordance with Oracle's Order and Delivery Policies which are in effect at the time of Your order and which may be accessed at <http://oracle.com/contracts>. Oracle will use the delivery address specified by You on Your purchasing document or when Your purchasing document does not indicate a ship to address, the location specified on the order and the delivery terms in the Order and Delivery Policies that are applicable to Your country of destination will apply.

9.1.3 Acceptance of the Hardware is deemed to occur on delivery.

9.1.4 Oracle may make and invoice You for partial deliveries.

9.1.5 Oracle may make substitutions and modifications to the Hardware that do not cause a material adverse effect in overall Hardware performance.

9.1.6 Oracle will use its reasonable commercial efforts to deliver the Hardware within a timeframe that is consistent with Oracle's past practices regarding the amount and type of Hardware that You have ordered.

### **9.2 Delivery and Installation of Integrated Software Options**

9.2.1 You are responsible for installation of the Integrated Software Options unless the Integrated Software Options have been pre-installed by Oracle on the Hardware You are purchasing under the order or unless You purchase installation services from Oracle for the Integrated Software Options.

9.2.2 Oracle has made available to You for electronic download at the electronic delivery web site located at the following Internet URL: <http://edelivery.oracle.com> the Integrated Software Options listed in the order. Through the Internet URL, You can access and electronically download to Your location the latest production release as of the effective date of the applicable order of the Integrated Software Options and related documentation for the Integrated Software Options listed. Provided that You have continuously maintained technical support for the listed Integrated Software Options, You may continue to download the Integrated Software Options and related documentation. Please be advised that not all Integrated Software Options are available on all Hardware/Operating System combinations. For the most recent Integrated Software Options availability please check the electronic delivery web site specified above. You acknowledge that Oracle is under no further delivery obligation with respect to Integrated Software Options under the applicable order, electronic download or otherwise.

### **9.3 Transfer of Title**

Title to the Hardware will transfer upon delivery.

### **9.4 Territory**

The Hardware shall be installed in the country/countries that You specify as the delivery location on Your purchasing document or when Your purchasing document does not indicate a ship to address, the location specified in the order.

### **9.5 Pricing, Invoicing, and Payment Obligation**

9.5.1 You may change a Hardware order prior to shipment subject to the then current change order fee as established by Oracle from time to time. The applicable change order fees and a description of allowed

changes are defined in the Order and Delivery Policies, which may be accessed at <http://oracle.com/contracts>.

9.5.2 In entering into payment obligations under an order, You agree and acknowledge that You have not relied on the future availability of any Hardware, Program or updates. However, (a) if You order technical support, the preceding sentence does not relieve Oracle of its obligation to provide such technical support under the Master Agreement, if and when available, in accordance with Oracle's then current technical support policies, and (b) the preceding sentence does not change the rights granted to You under an order and the Master Agreement.

9.5.3 Hardware and Integrated Software Options fees are invoiced as of the respective Commencement Dates.

9.5.4 Hardware-related Service Offering fees are invoiced in advance of the Hardware-related Service Offering performance; specifically, technical support fees are invoiced annually in advance. The period of performance for all Hardware-related Service Offerings is effective upon the Commencement Date of the Hardware or upon the effective date of the order if shipment of Hardware is not required.

9.5.5 In addition to the prices listed on the order, Oracle will invoice You for any applicable freight charges or applicable taxes, and You will be responsible for such charges and taxes notwithstanding any express or implied provision in the "Incoterms" referenced in the Order and Delivery Policies. The Order and Delivery Policies may be accessed at <http://oracle.com/contracts>.

Oracle America, Inc. ("Oracle")  
500 Oracle Parkway  
Redwood Shores, CA 94065

This Program Schedule (this "Schedule P") is a Schedule to the General Terms referenced above. The General Terms and this Schedule P, together with any other Schedules that reference the General Terms, are the Master Agreement. This Schedule P shall coterminate with the General Terms.

**1. DEFINITIONS**

1.1 "**Commencement Date**" refers to the date of shipment of tangible media or the effective date of the order if shipment of tangible media is not required (if the order was placed through the Oracle store, the effective date is the date the order was submitted to Oracle).

1.2 Capitalized terms used but not defined in this Schedule P have the meanings set forth in the General Terms.

**2. RIGHTS GRANTED**

2.1 Upon Oracle's acceptance of Your order, You have the non-exclusive, **non-assignable**, royalty free, perpetual (unless otherwise specified in the order), limited right to use the Programs and receive any Program-related Service Offerings You ordered solely for Your internal business operations and subject to the terms of the Master Agreement, including the definitions and rules set forth in the order and the Program Documentation.

2.2 Upon payment for Program-related Service Offerings, You have **the** non-exclusive, non-assignable, royalty free, **perpetual, limited right** to use for Your internal business operations anything developed by Oracle and delivered to You under this Schedule P ("deliverables"); however, certain deliverables may be subject to additional license terms provided in the order.

2.3 You may allow Your agents and contractors (including, without limitation, outsourcers) to use the Programs and deliverables for Your internal business operations and You are responsible for their compliance with the General Terms and this Schedule P in such use. For Programs that are specifically designed to allow Your customers and suppliers to interact with You in the furtherance of Your internal business operations, such use is allowed under the General Terms and this Schedule P.

2.4 You may make a sufficient number of copies of each Program for Your licensed use and one copy of each Program media.

**3. RESTRICTIONS**

3.1 The Programs may contain or require the use of third party technology that is provided with the Programs. Oracle may provide certain notices to You in Program Documentation, readmes or notice files in connection with such third party technology. Third party technology will be licensed to You either under the terms of the Master Agreement or, if specified in the Program Documentation, readmes or notice files, under Separate Terms. Your rights to use Separately Licensed Third Party Technology under Separate Terms are not

restricted in any way by the Master Agreement. However, for clarity, notwithstanding the existence of a notice, third party technology that is not Separately Licensed Third Party Technology shall be deemed part of the Programs and is licensed to You under the terms of the Master Agreement.

If You are permitted under an order to distribute the Programs, You must include with the distribution all such notices and any associated source code for Separately Licensed Third Party Technology as specified, in the form and to the extent such source code is provided by Oracle, and You must distribute Separately Licensed Third Party Technology under Separate Terms (in the form and to the extent Separate Terms are provided by Oracle). Notwithstanding the foregoing, Your rights to the Programs are solely limited to the rights granted in Your order.

### 3.2 You may not:

- a. remove or modify any Program markings or any notice of Oracle's or its licensors' proprietary rights;
- b. make the Programs or materials resulting from the Service Offerings available in any manner to any third party for use in the third party's business operations (unless such access is expressly permitted for the specific Program license or materials from the Service Offerings You have acquired);
- c. cause or permit reverse engineering (unless required by law for interoperability), disassembly or decompilation of the Programs (the foregoing prohibition includes but is not limited to review of data structures or similar materials produced by Programs);
- d. disclose results of any Program benchmark tests without Oracle's prior written consent.

3.3 The prohibition on the assignment or transfer of the Programs or any interest in them under section 15 of the General Terms shall apply to all Programs licensed under this Schedule P, except to the extent that such prohibition is rendered unenforceable under applicable law.

## 4. TRIAL PROGRAMS

You may order trial Programs, or Oracle may include additional Programs with Your order which You may use for trial, non-production purposes only. You may not use the trial Programs to provide or attend third party training on the content and/or functionality of the Programs. You have 30 days from the Commencement Date to evaluate these Programs. To use any of these Programs after the 30 day trial period, You must obtain a license for such Programs from Oracle or an authorized reseller. If You decide not to obtain a license for any Program after the 30 day trial period, You will cease using and promptly delete any such Programs from Your computer systems. Programs licensed for trial purposes are provided "as is" and Oracle does not provide technical support or offer any warranties for these Programs.

## 5. TECHNICAL SUPPORT

5.1 For purposes of an order, technical support consists of Oracle's annual technical support services You may have ordered from Oracle or an authorized reseller for the Programs. If ordered, annual technical support (including first year and all subsequent years) is provided under Oracle's technical support policies in effect at the time the technical support services are provided. You agree to cooperate with Oracle and provide the access, resources, materials, personnel, information and consents that Oracle may require in order to perform the technical support services. The technical support policies are incorporated in this Schedule P and are subject to change at Oracle's discretion; however, Oracle policy changes will not result in a material reduction in the level of technical support services provided for supported Programs during the period for which fees for technical support have been paid. You should review the policies prior to entering into the order for the applicable technical support services. You may access the current version of the technical support policies at <http://oracle.com/contracts>.

5.2 Software Update License & Support (or any successor technical support offering to Software Update License & Support, "SULS") acquired with Your order may be renewed annually and, if You renew SULS for the same number of licenses for the same Programs, for the first and second renewal years the fee for SULS will not increase by more than 3% over the prior year's fees. If Your order is fulfilled by an authorized reseller, the fee for SULS for the first renewal year will be the price quoted to You by Your authorized reseller; the fee for SULS for the second renewal year will not increase by more than 3% over the prior year's fees.

5.3 If You decide to purchase technical support for any Program license within a license set, You are required to purchase technical support at the same level for all licenses within that license set. You may desupport a subset of licenses in a license set only if You agree to terminate that subset of licenses. The technical support fees for the remaining licenses will be priced in accordance with the technical support policies in effect at the time of termination. Oracle's license set definition is available in the current technical support policies. If You decide not to purchase technical support, You may not update any unsupported Program licenses with new versions of the Program.

## **6. PROGRAM-RELATED SERVICE OFFERINGS**

In addition to technical support, You may order a limited number of Program-related Service Offerings under this Schedule P as listed in the Program-Related Service Offerings document, which is at <http://oracle.com/contracts>. You agree to provide Oracle with all information, access and full good faith cooperation reasonably necessary to enable Oracle to deliver these Service Offerings and You will perform the actions identified in the order as Your responsibility. If while performing these Service Offerings Oracle requires access to another vendor's products that are part of Your system, You will be responsible for acquiring all such products and the appropriate license rights necessary for Oracle to access such products on Your behalf. Service Offerings provided may be related to Your license to use Programs owned or distributed by Oracle which You acquire under a separate order. The agreement referenced in that order shall govern Your use of such Programs.

## **7. WARRANTIES, DISCLAIMERS AND EXCLUSIVE REMEDIES**

7.1 Oracle warrants that a Program licensed to You will operate in all material respects as described in the applicable Program Documentation for a period of one year after delivery (i.e., via physical shipment or electronic download). You must notify Oracle of any Program warranty deficiency within one year after delivery. Oracle also warrants that technical support services and Program-related Service Offerings (as referenced in section 6 above) ordered and provided under this Schedule P will be provided in a professional manner consistent with industry standards. You must notify Oracle of any technical support service or Program-related Service Offerings warranty deficiencies within 90 days from performance of the deficient technical support service or Program-related Service Offerings.

**7.2 ORACLE DOES NOT GUARANTEE THAT THE PROGRAMS WILL PERFORM ERROR-FREE OR UNINTERRUPTED OR THAT ORACLE WILL CORRECT ALL PROGRAM ERRORS.**

**7.3 FOR ANY BREACH OF THE ABOVE WARRANTIES, YOUR EXCLUSIVE REMEDY AND ORACLE'S ENTIRE LIABILITY SHALL BE: (A) THE CORRECTION OF PROGRAM ERRORS THAT CAUSE BREACH OF THE WARRANTY; OR, IF ORACLE CANNOT SUBSTANTIALLY CORRECT THE ERRORS OF THE APPLICABLE PROGRAM LICENSE IN A COMMERCIALY REASONABLE MANNER, YOU MAY END YOUR PROGRAM LICENSE AND RECOVER THE FEES YOU PAID TO ORACLE FOR THE PROGRAM LICENSE AND ANY UNUSED, PREPAID TECHNICAL SUPPORT FEES YOU HAVE PAID FOR THE PROGRAM LICENSE; OR (B) THE REPERFORMANCE OF THE DEFICIENT PROGRAM-RELATED SERVICE OFFERINGS; OR, IF ORACLE CANNOT SUBSTANTIALLY CORRECT THE DEFICIENCY IN A COMMERCIALY REASONABLE MANNER, YOU MAY END THE DEFICIENT PROGRAM-RELATED SERVICE OFFERINGS AND RECOVER THE FEES YOU PAID TO ORACLE FOR THE DEFICIENT PROGRAM-RELATED SERVICE OFFERINGS.**

**7.4 TO THE EXTENT NOT PROHIBITED BY LAW, THIS WARRANTY IS EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS, INCLUDING WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

## **8. AUDIT**

Upon 45 days written notice, Oracle may audit Your use of the Programs. You agree to cooperate with Oracle's audit and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with Your normal business operations. You agree to pay within 30 days of written notification any fees applicable to Your use of the Programs in excess of Your license rights. If You do not pay, Oracle can end (a) Program-related Service Offerings (including technical support), (b) Program licenses ordered under this Schedule P and related agreements and/or (c) the Master Agreement. You agree that Oracle shall not be responsible for any of Your costs incurred in cooperating with the audit.

## **9. ORDER LOGISTICS**

### **9.1 Delivery and Installation**

9.1.1 You are responsible for installation of the Programs unless the Programs have been pre-installed by Oracle on the Hardware You are purchasing under the order or unless You purchase installation services from Oracle for those Programs.

9.1.2 Oracle has made available to You for electronic download at the electronic delivery web site located at the following Internet URL: <http://edelivery.oracle.com> the Programs listed in the Programs and Program Support Service Offerings section of the applicable order. Through the Internet URL, You can access and electronically download to Your location the latest production release as of the effective date of the applicable order of the software and related Program Documentation for each Program listed. Provided that You have continuously maintained technical support for the listed Programs, You may continue to download the Programs and related Program Documentation. Please be advised that not all Programs are available on all hardware/operating system combinations. For the most recent Program availability please check the electronic delivery web site specified above. You acknowledge that Oracle is under no further delivery obligation with respect to Programs under the applicable order, electronic download or otherwise.

9.1.3 If ordered, Oracle will deliver the tangible media to the delivery address specified on the applicable order. You agree to pay applicable media and shipping charges. The applicable shipping terms for the delivery of tangible media are: FCA Shipping Point, Prepaid, and Add.

### **9.2 Territory**

The Programs shall be used in the country/countries specified in the order.

### **9.3 Pricing, Invoicing and Payment Obligation**

9.3.1 In entering into payment obligations under an order, You agree and acknowledge that You have not relied on the future availability of any Program or updates. However, (a) if You order technical support, the preceding sentence does not relieve Oracle of its obligation to provide such technical support under the Master Agreement, if and when available, in accordance with Oracle's then current technical support policies, and (b) the preceding sentence does not change the rights granted to You under an order and the Master Agreement.

9.3.2 Program fees are invoiced as of the Commencement Date.

9.3.3 Program-related Service Offering fees are invoiced in advance of the Program-related Service Offering performance; specifically, technical support fees are invoiced annually in advance. The period of performance for all Program-related Service Offerings is effective upon the Commencement Date.

9.3.4 In addition to the prices listed on the order, Oracle will invoice You for any applicable shipping charges or applicable taxes and You will be responsible for such charges and taxes.

Oracle America, Inc. ("Oracle")

500 Oracle Parkway

Redwood Shores, CA 94065

This Cloud Services Schedule (this "Schedule C") is a Schedule to the General Terms referenced above. This Schedule C shall coterminate with the General Terms. For purposes of the Services under this Schedule C, the General Terms and this Schedule C constitute, collectively, the "Master Agreement"; other Schedules to the General Terms, such as Schedule P (Program Schedule), do not apply to the Services ordered under this Schedule C.

## 1. DEFINITIONS

1.1 "**Ancillary Software**" means any software agent or tool that Oracle makes available to You for download for purposes of facilitating Your access to, operation of, and/or use with, the Services Environment.

1.2 "**Auto Renew**" or "**Auto Renewal**" is the process by which the Services Period of certain Cloud Services under an order is automatically extended for an additional Services Period unless such Services are otherwise terminated in accordance with the terms of the order or this Master Agreement. The Service Specifications incorporated into Your order define which Cloud Services are eligible for Auto Renewal as well as any terms applicable to any such renewal.

1.3 "**Cloud Services**" means, collectively, the Oracle cloud services (e.g., Oracle software as a service offerings and related Oracle Programs) listed in Your order and defined in the Service Specifications. The term "Cloud Services" does not include Professional Services.

1.4 "**Data Center Region**" refers to the geographic region in which the Services Environment is physically located. The Data Center Region applicable to the Cloud Services is set forth in Your order.

1.5 "**Oracle Programs**" refers to the software products owned or licensed by Oracle to which Oracle grants You access as part of the Cloud Services, including Program Documentation, and any program updates provided as part of the Cloud Services.

1.6 "**Professional Services**" means, collectively, the Cloud Services-related consulting and other professional services which You have ordered under this Schedule C. Professional Services include any deliverables described in Your order and delivered by Oracle to You under the order. The term "Professional Services" does not include Cloud Services or services provided under Schedules P or S to the General Terms.

1.7 "**Program Documentation**" refers to the user manuals referenced within the Service Specifications for Cloud Services, as well as any help windows and readme files for the Oracle Programs that are accessible from within the Services. The Program Documentation describes technical and functional aspects of the Oracle Programs. For Oracle Infrastructure-as-a-Service (IaaS) Cloud Services, "Program Documentation" includes documentation, help windows and readme files for the IaaS hardware products. You may access the documentation online at <http://oracle.com/contracts> or such other address specified by Oracle.

1.8 "**Services**" means, collectively, the Cloud Services and Professional Services ordered by You under this Schedule C.

1.9 "**Services Environment**" refers to the combination of hardware and software components owned, licensed or managed by Oracle to which Oracle grants You and Your Users access as part of the Cloud Services which You have ordered. As applicable and subject to the terms of this Master Agreement and Your order, Oracle Programs, Third Party Content, Your Content and Your Applications may be hosted in the Services Environment.

1.10 “**Service Specifications**” means the descriptions on [www.oracle.com/contracts](http://www.oracle.com/contracts), or such other address specified by Oracle, that are applicable to the Services under Your order, including any Program Documentation, hosting, support and security policies (for example, Oracle Cloud Hosting and Delivery Policies), and other descriptions referenced or incorporated in such descriptions or Your order.

1.11 “**Services Period**” refers to the period of time for which You have ordered Cloud Services as specified in Your order.

1.12 “**Third Party Content**” means all text, files, images, graphics, illustrations, information, data, audio, video, photographs and other content and material, in any format, that are obtained or derived from third party sources outside of Oracle and made available to You through, within, or in conjunction with Your use of, the Cloud Services. Examples of Third Party Content include data feeds from social network services, rss feeds from blog posts, and data libraries and dictionaries and marketing data.

1.13 “**Users**” means those employees, contractors, and end users, as applicable, authorized by You or on Your behalf to use the Cloud Services in accordance with this Master Agreement and Your order. For Cloud Services that are specifically designed to allow Your clients, agents, customers, suppliers or other third parties to access the Cloud Services to interact with You, such third parties will be considered “Users” subject to the terms of this Master Agreement and Your order.

1.14 “**Your Applications**” means all software programs, including any source code for such programs, that You or Your Users provide and load onto, or create using, any Oracle “platform-as-a-service” or “infrastructure-as-a-service” Cloud Services. Services under this Master Agreement, including Oracle Programs and Services Environments, Oracle intellectual property, and all derivative works thereof, do not fall within the meaning of the term “Your Applications.”

1.15 “**Your Content**” means all text, files, images, graphics, illustrations, information, data (including Personal Data as that term is defined in the Data Processing Agreement for Oracle Cloud Services described in Section 10.2 below), audio, video, photographs and other content and material (other than Your Applications), in any format, provided by You or on behalf of Your Users that reside in, or run on or through, the Services Environment.

1.16 Capitalized terms used but not defined in this Schedule C have the meanings set forth in the General Terms.

## 2. RIGHTS GRANTED

2.1 For the duration of the Services Period and subject to Your payment obligations, and except as otherwise set forth in this Master Agreement or Your order, You have the non-exclusive, non-assignable, worldwide, limited right to access and use the Services that You ordered, including anything developed by Oracle and delivered to You as part of the Services, solely for Your internal business operations and subject to the terms of this Master Agreement and Your order, including the Service Specifications. You may allow Your Users to use the Services for this purpose and You are responsible for Your Users’ compliance with this Master Agreement and the order.

2.2 You do not acquire under this Master Agreement any right or license to use the Services, including the Oracle Programs and Services Environment, in excess of the scope and/or duration of the Services stated in Your order. Upon the end of the Services ordered, Your right to access and use the Services will terminate.

2.3 To enable Oracle to provide You and Your Users with the Services, You grant Oracle the right to use, process and transmit, in accordance with this Master Agreement and Your order, Your Content and Your Applications for the duration of the Services Period plus any additional post-termination period during which Oracle provides You with access to retrieve an export file of Your Content and Your Applications. If Your Applications include third party programs, You acknowledge that Oracle may allow providers of those third party programs to access the Services Environment, including Your Content and Your Applications, as required for the interoperation of such third party programs with the Services. Oracle will not be responsible for any use, disclosure, modification or deletion of Your Content or Your Applications resulting from any such access by third party program providers or for the interoperability of such third party programs with the Services.

2.4 Except as otherwise expressly set forth in Your order for certain Cloud Services offerings (e.g., a private cloud hosted at Your facility), You acknowledge that Oracle has no delivery obligation for Oracle Programs and will not ship copies of such programs to You as part of the Services.

2.5 As part of certain Cloud Services offerings, Oracle may provide You with access to Third Party Content. The type and scope of any Third Party Content is defined in Your order or applicable Service Specifications. The third party

owner, author or provider of such Third Party Content retains all ownership and intellectual property rights in and to that content, and Your rights to use such Third Party Content are subject to, and governed by, the terms applicable to such content as specified by such third party owner, author or provider, unless otherwise specified in Your order.

### **3. OWNERSHIP AND RESTRICTIONS**

3.1 You retain all ownership and intellectual property rights in and to Your Content and Your Applications. Oracle or its licensors retain all ownership and intellectual property rights to the Services, including Oracle Programs and Ancillary Software, and derivative works thereof, and to anything developed or delivered by or on behalf of Oracle under this Master Agreement.

3.2 You may not, and may not cause or permit others to:

- a. remove or modify any program markings or any notice of Oracle's or its licensors' proprietary rights;
- b. make the programs or materials resulting from the Services (excluding Your Content and Your Applications) available in any manner to any third party for use in the third party's business operations (unless such access is expressly permitted for the specific Services You have acquired);
- c. modify, make derivative works of, disassemble, decompile, reverse engineer, reproduce, distribute, republish or download any part of the Services (the foregoing prohibitions include but are not limited to review of data structures or similar materials produced by programs), or access or use the Services in order to build or support, and/or assist a third party in building or supporting, products or Services competitive to Oracle;
- d. perform or disclose any benchmark or performance tests of the Services, including the Oracle Programs;
- e. perform or disclose any of the following security testing of the Services Environment or associated infrastructure: network discovery, port and service identification, vulnerability scanning, password cracking, remote access testing, or penetration testing; and
- f. license, sell, rent, lease, transfer, assign, distribute, host, outsource, permit timesharing or service bureau use, or otherwise commercially exploit or make available the Services, Oracle Programs, Ancillary Software, Services Environments or Oracle materials to any third party, other than as expressly permitted under the terms of the applicable order.

### **4. SERVICE SPECIFICATIONS**

4.1 The Services are subject to and governed by Service Specifications applicable to Your order. Service Specifications may define provisioning and management processes applicable to the Services (such as capacity planning), types and quantities of system resources (such as storage allotments), functional and technical aspects of the Oracle Programs, as well as any Services deliverables. You acknowledge that use of the Services in a manner not consistent with the Service Specifications may adversely affect Services performance and/or may result in additional fees. If the Services permit You to exceed the ordered quantity (e.g., soft limits on counts for Users, sessions, storage, etc.), then You are responsible for promptly purchasing additional quantity to account for Your excess usage. For any month that You do not promptly purchase such additional quantity, Oracle may require You to pay, in addition to the fees for the additional quantity, an excess usage fee for those Services equivalent to 10% of the fees for the additional quantity in the month in which such excess usage occurred.

4.2 Oracle may make changes or updates to the Services (such as infrastructure, security, technical configurations, application features, etc.) during the Services Period, including to reflect changes in technology, industry practices, patterns of system use, and availability of Third Party Content. The Service Specifications are subject to change at Oracle's discretion; however, Oracle changes to the Service Specifications will not result in a material reduction in the level of performance, security or availability of the applicable Services provided to You for the duration of the Services Period.

4.3 Your order will specify the Data Center Region in which Your Services Environment will reside. As described in the Service Specifications and to the extent applicable to the Cloud Services that You have ordered, Oracle will provide production, test, and backup environments in the Data Center Region stated in Your order. Oracle and its affiliates may perform certain aspects of Cloud Services, such as service administration and support, as well as other Services (including Professional Services and disaster recovery), from locations and/or through use of subcontractors, worldwide.

## **5. USE OF THE SERVICES**

5.1 You are responsible for identifying and authenticating all Users, for approving access by such Users to the Services, for controlling against unauthorized access by Users, and for maintaining the confidentiality of usernames, passwords and account information. By federating or otherwise associating Your and Your Users' usernames, passwords and accounts with Oracle, You accept responsibility for the confidentiality and timely and proper termination of user records in Your local (intranet) identity infrastructure or on Your local computers. Oracle is not responsible for any harm caused by Your Users, including individuals who were not authorized to have access to the Services but who were able to gain access because usernames, passwords or accounts were not terminated on a timely basis in Your local identity management infrastructure or Your local computers. You are responsible for all activities that occur under Your and Your Users' usernames, passwords or accounts or as a result of Your or Your Users' access to the Services, and agree to notify Oracle immediately of any unauthorized use. You agree to make every reasonable effort to prevent unauthorized third parties from accessing the Services.

5.2 You shall not use or permit use of the Services, including by uploading, emailing, posting, publishing or otherwise transmitting any material, including Your Content, Your Applications and Third Party Content, for any purpose that may (a) menace or harass any person or cause damage or injury to any person or property, (b) involve the publication of any material that is false, defamatory, harassing or obscene, (c) violate privacy rights or promote bigotry, racism, hatred or harm, (d) constitute unsolicited bulk e-mail, "junk mail", "spam" or chain letters; (e) constitute an infringement of intellectual property or other proprietary rights, or (f) otherwise violate applicable laws, ordinances or regulations. In addition to any other rights afforded to Oracle under this Master Agreement, Oracle reserves the right, but has no obligation, to take remedial action if any material violates the restrictions in the foregoing sentence (the "Acceptable Use Policy"), including the removal or disablement of access to such material. Oracle shall have no liability to You in the event that Oracle takes such action. You shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and ownership of all of Your Content and Your Applications. You agree to defend and indemnify Oracle against any claim arising out of a violation of Your obligations under this section.

5.3 You are required to accept all patches, bug fixes, updates, maintenance and service packs (collectively, "Patches") necessary for the proper function and security of the Services, including for the Oracle Programs, as such Patches are generally released by Oracle as described in the Service Specifications. Oracle is not responsible for performance or security issues encountered with the Cloud Services that result from Your failure to accept the application of Patches that are necessary for the proper function and security of the Services. Except for emergency or security related maintenance activities, Oracle will coordinate with You the scheduling of application of Patches, where possible, based on Oracle's next available standard maintenance window.

## **6. TRIAL USE AND PILOT CLOUD SERVICES**

6.1 For certain Cloud Services, Oracle may make available "trials" and "conference room pilots" for non-production evaluation purposes. Cloud trials and conference room pilots must be ordered under a separate agreement.

6.2 Oracle may make available "production pilots" for certain Cloud Services under this Master Agreement. Production pilots ordered by You are described in the Service Specifications applicable to Your order, and are provided solely for You to evaluate and test Cloud Services for Your internal business purposes. You may be required to order certain Professional Services as a prerequisite to an order for a production pilot.

## **7. FEES, INVOICING AND PAYMENT OBLIGATION**

7.1 You agree and acknowledge that You have not relied on the future availability of any Services, programs or updates in entering into the payment obligations in Your order; however, the preceding does not relieve Oracle of its obligation during the Services Period to deliver Services that You have ordered per the terms of this Master Agreement.

7.2 Services fees are invoiced as set forth in the applicable order. Once placed, Your order is non-cancelable and the sums paid nonrefundable, except as provided in this Master Agreement or Your order.

7.3 Fees for Services listed in an order are exclusive of taxes and expenses and You will be responsible for such taxes and expenses.

## **8. SERVICES PERIOD; END OF SERVICES**

8.1 Services provided under this Master Agreement shall be provided for the Services Period defined in Your order, unless earlier suspended or terminated in accordance with this Master Agreement or the order. This Master Agreement will continue to govern any order for the duration of the Services Period of such order. If stated in the Service

Specifications, certain Cloud Services that are ordered will Auto Renew for additional Services Periods unless (i) You provide Oracle with written notice no later than thirty (30) days prior to the end of the applicable Services Period of Your intention not to renew such Cloud Services, or (ii) Oracle provides You with written notice no later than ninety (90) days prior to the end of the applicable Services Period of its intention not to renew such Cloud Services.

8.2 Upon the end of the Services, You no longer have rights to access or use the Services, including the associated Oracle Programs and Services Environments; however, for a period of up to 60 days after the end of the applicable Services Period, Oracle will make available Your Content and Your Applications then in the Services Environment for the purpose of retrieval by You. At the end of such 60 day period, and except as may be required by law, Oracle will delete or otherwise render inaccessible any of Your Content and Your Applications that remain in the Services Environment.

8.3 Oracle may temporarily suspend Your password, account, and access to or use of the Services if You or Your Users violate any provision within the 'Rights Granted', 'Ownership and Restrictions', 'Fees and Taxes', 'Use of the Services', or 'Export' sections of this Master Agreement, or if in Oracle's reasonable judgment, the Services or any component thereof are about to suffer a significant threat to security or functionality. Oracle will provide advance notice to You of any such suspension in Oracle's reasonable discretion based on the nature of the circumstances giving rise to the suspension. Oracle will use reasonable efforts to re-establish the affected Services promptly after Oracle determines, in its reasonable discretion, that the situation giving rise to the suspension has been cured; however, during any suspension period, Oracle will make available to You Your Content and Your Applications as existing in the Services Environment on the date of suspension. Oracle may terminate the Services under an order if any of the foregoing causes of suspension is not cured within 30 days after Oracle's initial notice thereof. Any suspension or termination by Oracle under this paragraph shall not excuse You from Your obligation to make payment(s) under this Master Agreement.

8.4 If You breach a material term of the Master Agreement as specified in Section 6.1 of the General Terms, Oracle may terminate the order under which the breach occurred; in such event You must pay within 30 days all amounts that have accrued prior to such termination, as well as all sums remaining unpaid for the Services ordered under such order plus related taxes and expenses.

## **9. NONDISCLOSURE OF YOUR CONTENT AND YOUR APPLICATIONS**

Your Content and Your Applications residing in the Services Environment will be considered Confidential Information subject to the terms of this section and Section 8 of the General Terms. Oracle will hold such Confidential Information in confidence for as long as it resides in the Services Environment and will protect the confidentiality of such Confidential Information in accordance with the Oracle security practices defined in the Service Specifications applicable to Your order. In addition, Your Personal Data, as defined in the Data Processing Agreement, will be treated in accordance with the terms of Section 10 below.

## **10. DATA PROTECTION**

10.1 In performing the Services, Oracle will comply with the *Oracle Services Privacy Policy*, which is available at <http://www.oracle.com/html/Services-privacy-policy.html> and incorporated herein by reference. The *Oracle Services Privacy Policy* is subject to change at Oracle's discretion; however, Oracle policy changes will not result in a material reduction in the level of protection provided for Your Personal Data provided as part of Your Content during the Services Period of Your order.

10.2 Oracle's *Data Processing Agreement for Oracle Cloud Services* (the "Data Processing Agreement"), which is available at <http://www.oracle.com/dataprocessingagreement> and incorporated herein by reference, describes the parties' respective roles for the processing and control of Personal Data that You provide to Oracle as part of the Cloud Services. Oracle will act as a data processor, and will act on Your instruction concerning the treatment of Your Personal Data residing in the Services Environment, as specified in this Master Agreement, the Data Processing Agreement and the applicable order. You agree to provide any notices and obtain any consents related to Your use of the Services and Oracle's provision of the Services, including those related to the collection, use, processing, transfer and disclosure of Personal Data.

10.3 The Service Specifications applicable to Your order define the administrative, physical, technical and other safeguards applied to Your Content residing in the Services Environment, and describe other aspects of system management applicable to the Services. You are responsible for any security vulnerabilities, and the consequences of such vulnerabilities, arising from Your Content and Your Applications, including any viruses, Trojan horses, worms or other programming routines contained in Your Content or Your Applications that could limit or harm the functionality of a computer or that could damage, intercept or expropriate data. You may disclose or transfer, or instruct Oracle to

disclose or transfer, Your Content or Your Applications to a third party, and upon such disclosure or transfer Oracle is no longer responsible for the security or confidentiality of such content and applications outside of Oracle.

10.4 You may not provide Oracle access to health, payment card or similarly sensitive personal information that imposes specific data security obligations for the processing of such data unless specified in Your order. If available, You may purchase services from Oracle (e.g., Oracle Payment Card Industry Compliance Services, Oracle HIPAA Security Services, Oracle Federal Security Services, etc.) designed to address particular data protection requirements applicable to Your business or Your Content.

## **11. WARRANTIES, DISCLAIMERS AND EXCLUSIVE REMEDIES**

11.1 Oracle warrants that it will perform (i) Cloud Services in all material respects as described in the Service Specifications, and (ii) Professional Services in a professional manner in accordance with the Service Specifications. If the Services provided to You were not performed as warranted, You must promptly provide written notice to Oracle that describes the deficiency in the Services (including, as applicable, the service request number notifying Oracle of the deficiency in the Services).

11.2 ORACLE DOES NOT GUARANTEE THAT (A) THE SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED, OR THAT ORACLE WILL CORRECT ALL SERVICES ERRORS, (B) THE SERVICES WILL OPERATE IN COMBINATION WITH YOUR CONTENT OR YOUR APPLICATIONS, OR WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEMS, SERVICES OR DATA NOT PROVIDED BY ORACLE, AND (C) THE SERVICES WILL MEET YOUR REQUIREMENTS, SPECIFICATIONS OR EXPECTATIONS. YOU ACKNOWLEDGE THAT ORACLE DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. ORACLE IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS. ORACLE IS NOT RESPONSIBLE FOR ANY ISSUES RELATED TO THE PERFORMANCE, OPERATION OR SECURITY OF THE SERVICES THAT ARISE FROM YOUR CONTENT, YOUR APPLICATIONS OR THIRD PARTY CONTENT.

11.3 FOR ANY BREACH OF THE SERVICES WARRANTY, YOUR EXCLUSIVE REMEDY AND ORACLE'S ENTIRE LIABILITY SHALL BE THE CORRECTION OF THE DEFICIENT SERVICES THAT CAUSED THE BREACH OF WARRANTY, OR, IF ORACLE CANNOT SUBSTANTIALLY CORRECT THE DEFICIENCY IN A COMMERCIALY REASONABLE MANNER, YOU MAY END THE DEFICIENT SERVICES AND ORACLE WILL REFUND TO YOU THE FEES FOR THE TERMINATED SERVICES THAT YOU PRE-PAID TO ORACLE FOR THE PERIOD FOLLOWING THE EFFECTIVE DATE OF TERMINATION.

11.4 TO THE EXTENT NOT PROHIBITED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS INCLUDING FOR SOFTWARE, HARDWARE, SYSTEMS, NETWORKS OR ENVIRONMENTS OR FOR MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE.

## **12. LIMITATION OF LIABILITY**

**NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF REVENUE OR PROFITS (EXCLUDING FEES UNDER THIS MASTER AGREEMENT), DATA, OR DATA USE. ORACLE'S AGGREGATE LIABILITY FOR ALL DAMAGES ARISING OUT OF OR RELATED TO THIS MASTER AGREEMENT OR YOUR ORDER, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL BE LIMITED TO THE TOTAL AMOUNTS ACTUALLY PAID TO ORACLE FOR THE SERVICES UNDER THE ORDER GIVING RISE TO THE LIABILITY IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY LESS ANY REFUNDS OR CREDITS RECEIVED BY YOU FROM ORACLE UNDER SUCH ORDER.**

## **13. ADDITIONAL INFRINGEMENT INDEMNIFICATION TERMS**

13.1 If Oracle is the Provider and exercises its option under Section 5.2 of the General Terms to end the license for and require the return of a Material that is a component of the Cloud Services, including an Oracle Program, then Oracle will refund any unused, prepaid fees that You have paid for such Material. If such Material is third party technology and the terms of the third party license do not allow Oracle to terminate the license, then Oracle may, upon 30 days prior written notice, end the Services associated with such Material and refund to You any unused, prepaid fees for such Services.

13.2 Oracle will not indemnify You to the extent that an infringement claim is based on Third Party Content or any Material from a third party portal or other external source that is accessible or made available to You within or by the Services (e.g., a social media post from a third party blog or forum, a third party Web page accessed via a hyperlink, marketing data from third party data providers, etc.). Oracle will not indemnify You for infringement caused by Your actions against any third party if the Services as delivered to You and used in accordance with the terms of this Master Agreement would not otherwise infringe any third party intellectual property rights. Oracle will not indemnify You for any intellectual property infringement claim(s) known to You at the time Services rights are obtained.

13.3 The phrase “user documentation” in the first sentence of Section 5.6 of the General Terms includes the Service Specifications referenced in Your order for Services.

#### **14. THIRD PARTY WEB SITES, CONTENT, PRODUCTS AND SERVICES**

14.1 The Services may enable You to link to, transmit Your Content to, or otherwise access, other Web sites, platforms, content, products, services, and information of third parties. Oracle does not control and is not responsible for such Web sites or platforms or any such content, products, services and information accessible from or provided through the Services, and You bear all risks associated with access to and use of such Web sites and third party content, products, services and information.

14.2 Any Third Party Content made accessible by Oracle is provided on an “as is” and “as available” basis without any warranty of any kind. Third Party Content may be indecent, offensive, inaccurate, infringing or otherwise objectionable or unlawful, and You acknowledge that Oracle is not responsible for and under no obligation to control, monitor or correct Third Party Content; however, Oracle reserves the right to take remedial action if any such content violates applicable restrictions under of this Master Agreement, including the removal of, or disablement of access to, such content. Oracle disclaims all liabilities arising from or related to Third Party Content.

14.3 You acknowledge that: (i) the nature, type, quality and availability of Third Party Content may change at any time during the Services Period, and (ii) features of the Services that interoperate with third parties such as Facebook™, YouTube™ and Twitter™, etc. (each, a “Third Party Service”), depend on the continuing availability of such third parties’ respective application programming interfaces (APIs) for use with the Services. Oracle may update, change or modify the Services under this Master Agreement as a result of a change in, or unavailability of, such Third Party Content, Third Party Services or APIs. If any third party ceases to make its Third Party Content or APIs available on reasonable terms for the Services, as determined by Oracle in its sole discretion, Oracle may cease providing access to the affected Third Party Content or Third Party Services without any liability to You. Any change to Third Party Content, Third Party Services or APIs, including their availability or unavailability, during the Services Period does not affect Your obligations under this Master Agreement or the applicable order, and You will not be entitled to any refund, credit or other compensation due to any such change.

14.4 Any Third Party Content that You store in Your Services Environment will count towards any storage or other allotments applicable to the Cloud Services that You ordered.

#### **15. SERVICES TOOLS AND ANCILLARY SOFTWARE**

15.1 Oracle may use tools, scripts, software, and utilities (collectively, the “Tools”) to monitor and administer the Services and to help resolve Your Oracle service requests. The Tools will not collect or store any of Your Content or Your Applications residing in the Services Environment, except as necessary to provide the Services or troubleshoot service requests or other problems in the Services. Information collected by the Tools (excluding Your Content and Your Applications) may also be used to assist in managing Oracle’s product and service portfolio, to help Oracle address deficiencies in its product and service offerings, and for license and Services management.

15.2 Oracle may provide You with on-line access to download certain Ancillary Software for use with the Services. If Oracle licenses Ancillary Software to You and does not specify separate terms for such Ancillary Software, then, subject to Your payment obligations, (i) You have the non-exclusive, non-assignable, worldwide limited right to use such Ancillary Software solely to facilitate Your access to, operation of, and/or use of the Services Environment, subject to the terms of this Master Agreement and Your order, including the Services Specifications, (ii) Oracle will maintain such Ancillary Software as part of the Cloud Services, and (iii) Your right to use such Ancillary Software will terminate upon the earlier of Oracle’s notice (which may be through posting on <https://support.oracle.com> or such other URL designated by Oracle) or the end of the Cloud Services associated with the Ancillary Software. If Ancillary Software is licensed to You under separate third party license terms, then Your use of such software is subject to such separate terms.

#### **16. SERVICE ANALYSES**

Oracle may (i) compile statistical and other information related to the performance, operation and use of the Services, and (ii) use data from the Services Environment in aggregated form for security and operations management, to create statistical analyses, and for research and development purposes (clauses i and ii are collectively referred to as "Service Analyses"). Oracle may make Service Analyses publicly available; however, Service Analyses will not incorporate Your Content or Confidential Information in a form that could serve to identify You or any individual, and Service Analyses do not constitute Personal Data. Oracle retains all intellectual property rights in Service Analyses.

## **17. ADDITIONAL NOTICE TERMS**

17.1 To request a termination of Services in accordance with this Master Agreement, You must submit a service request to Oracle at the address specified in Your order or the Service Specifications.

17.2 Oracle may give notices applicable to Oracle's Cloud Services customer base by means of a general notice on the Oracle portal for the Cloud Services, and notices specific to You by electronic mail to Your e-mail address on record in Oracle's account information or by written communication sent by first class mail or pre-paid post to Your address on record in Oracle's account information.

## **18. ADDITIONAL EXPORT TERMS**

18.1 You acknowledge that the Cloud Services are designed with capabilities for You and Your Users to access the Services Environment without regard to geographic location and to transfer or otherwise move Your Content and Your Applications between the Services Environment and other locations such as User workstations. You are solely responsible for the authorization and management of User accounts, as well as export control and geographic transfer of Your Content and Your Applications.

## **19. OTHER**

19.1 Oracle is an independent contractor and we agree that no partnership, joint venture, or agency relationship exists between us. We are each responsible for paying our own employees, including employment related taxes and insurance. You understand that Oracle's business partners and other third parties, including any third parties with which Oracle has an integration or that are retained by You to provide consulting or implementation services or applications that interact with the Cloud Services, are independent of Oracle and are not Oracle's agents. Oracle is not liable for, bound by, or responsible for any problems with the Services, Your Content or Your Applications arising due to any acts of any such business partner or third party, unless the business partner or third party is providing Services as an Oracle subcontractor on an engagement ordered under this Master Agreement and, if so, then only to the same extent as Oracle would be responsible for Oracle resources under this Master Agreement.

19.2 You shall obtain at Your sole expense, any rights and consents from third parties necessary for Your Content, Your Applications, and Third Party Content, as well as other vendor's products provided by You that You use with the Services, including such rights and consents as necessary for Oracle to perform the Services under this Master Agreement.

19.3 You agree to provide Oracle with all information, access and full good faith cooperation reasonably necessary to enable Oracle to provide the Services and You will perform the actions identified in Your order as Your responsibilities.

19.4 You remain solely responsible for Your regulatory compliance in connection with Your use of the Services. You are responsible for making Oracle aware of any technical requirements that result from Your regulatory obligations prior to entering into an order governed by this Master Agreement. Oracle will cooperate with Your efforts to determine whether use of the standard Oracle Services offering is consistent with those requirements. Additional fees may apply to any additional work performed by Oracle or changes to the Services.

19.5 Oracle may audit Your use of the Services (e.g., through use of software tools) to assess whether Your use of the Services is in accordance with Your order and the terms of this Master Agreement. You agree to cooperate with Oracle's audit and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with Your normal business operations. You agree to pay within 30 days of written notification any fees applicable to Your use of the Services in excess of Your rights. If You do not pay, Oracle can end Your Services and/or Your order. You agree that Oracle shall not be responsible for any of Your costs incurred in cooperating with the audit.

19.6 In the event of any inconsistencies between the terms of an order and the Master Agreement, the order shall take precedence; however, unless expressly stated otherwise in an order, the terms of the Data Processing Agreement shall take precedence over any inconsistent terms in an order. Except as otherwise permitted in Section 4 (Service

Specifications), Section 10 (Data Protection) and Section 14 (Third Party Web Sites) with respect to the Services, this Master Agreement and orders hereunder may not be modified and the rights and restrictions may not be altered or waived except in a writing signed or accepted online through the Oracle Store by authorized representatives of You and of Oracle. No third party beneficiary relationships are created by this Master Agreement.

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**EXHIBIT C-4**

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Facility:  
File No.:  
Brand:

## OPERA SUPPLEMENTAL SERVICES AGREEMENT

This OPERA Supplemental Services Agreement (“**Agreement**”) is dated as of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_ a \_\_\_\_\_ corporation (“**we**”, “**our**” or “**us**”), and \_\_\_\_\_ (“**Franchisee**,” “**you**,” or “**your**”). The definitions of some capitalized terms are found throughout this Agreement and in Schedule A attached hereto. All other capitalized terms shall have the meanings ascribed in the Franchise Agreement.

### Recitals

- A. You have entered or are about to enter into an agreement(s) with Oracle America, Inc. d/b/a Oracle Hospitality, or one of its affiliates (collectively, “**Oracle**”) for the purpose of purchasing from Oracle the right to access and/or use, via a software as a service solution, Oracle’s proprietary property management system referred to as OPERA (the “**OPERA PMS**”), as well as to receive ongoing support from Oracle related to such use (the “**Oracle Agreement**”). You entering into an Oracle Agreement with Oracle, and its ongoing validity is a condition precedent to the effectiveness of this Agreement.
- B. In the event that you and we have already entered into an OPERA Supplemental Services Agreement (“**Previous Agreement**”), this Agreement hereby supersedes and replaces the Previous Agreement in its entirety.

In consideration of the above premises and following mutual promises, the parties agree as follows:

### **1. Activities.**

1.1 Collection of Fees. In exchange for you paying us the fees described in this Agreement, we will perform the Services. Your Oracle Agreement also requires you to pay certain fees directly to Oracle (“**Oracle Fees**”). We have entered, or in the future may enter, into an arrangement with Oracle wherein we will collect such Oracle Fees from you on Oracle’s behalf, and pay Oracle the Oracle Fees owed by you under the Oracle Agreement. In such case, we may retain a percentage of fees collected to reimburse us for our costs associated with such collection. We may modify this payment arrangement in our sole discretion from time to time. If we collect such Oracle Fees from you on Oracle’s behalf, you will see such fees reflected on the monthly invoice you receive from us.

1.2 HTCS Support. We will provide you with the Hotel Technology Client Support services that are described in Schedule D attached hereto (“**HTCS Services**”). The HTCS Services include, but are not limited to, support for technology applications we may offer you from time to time, such as our Reservation System, as well as support of tools such as the Brand

Information Source Portal, and activities related to PMS Vendor Management. For the avoidance of doubt, the HTCS Services do **not** include: (a) support relating to the OPERA databases, servers, application servers and/or storage, each of which are housed at a Oracle data center and not at the Facility; or (b) services relating to data backups, which shall be the Facility's responsibility.

1.3 Revenue Management Consulting Services. From time to time, we may provide services to you under our Central Rate and Inventory Support Program (the “**CRISP Services**”) as described in Schedule C attached hereto, which we may update or supplement from time to time.

1.4 Additional Services. From time to time, we may provide you with Additional Services, for which we may charge you an additional fee. The additional fee, if any, for Additional Services will always be subject to your prior approval on a case-by-case basis. Any initial installation and/or implementation Services required will be performed as Additional Services hereunder, and any associated up-front costs or fees are identified in Schedule B to this Agreement.

1.5 Disclaimer. We are not responsible for the loss of any data or for any viruses or malware infecting your systems. It is your responsibility to ensure that the Facility's data is adequately backed up at all times and that you maintain current updated anti-virus/anti-malware software at all times. Assistance with restoring lost data or with addressing an infected system may be provided as Additional Services.

## **2. Payments and Terms.**

2.1 Fees. All amounts due to us (and for circumstances where we collect fees from you on Oracle's behalf, to Oracle), as outlined in Schedule B, or as are otherwise approved for Additional Services, are payable upon your receipt of our invoice. If you do not make all payments of fees to us when due, upon written notice to you, we may suspend the Service or Terminate this Agreement. We may increase the ongoing fees on an annual basis by no more than five percent (5%) above the fees paid by you during the immediately preceding twelve (12) month period; provided that we must notify you no less than thirty (30) days prior to any such increase taking effect.

2.2 Overdue Charges. If any charges are not received from you by the due date, then at our discretion, such charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

2.3 Suspension of Service and Acceleration. If any fees owing by you under this or any other agreement for our Services is 30 or more days overdue, we may, without limiting our other rights and remedies, accelerate your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend our Services to you until such amounts are paid in full. We will give you at least 7 days prior notice that your account is overdue, in accordance with Section 8.3 below (Notices), before suspending Services to you.

**3. Indemnification.** You will indemnify and hold harmless us, our Affiliates, successors and assigns and each of the respective directors, officers and employees associated with them against all claims of employees, agents, guests, and all other persons and entities, arising out of the Services including, but not limited to, your failure to comply with this Agreement. We shall not be liable to you or any other person or entity for personal injury or property loss, including but not limited to, damage to the Facility. You are not obligated to indemnify us for our own negligence or our intentional misconduct.

#### **4. No Warranties.**

4.1 SAVE WHERE SUCH WARRANTIES OR REPRESENTATIONS ARE REQUIRED TO BE GIVEN OR MADE BY APPLICABLE LAW, (A) WE MAKE NO WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY ABOUT THE HTCS SERVICES, CRISP SERVICES OR ADDITIONAL SERVICES, THEIR MERCHANTABILITY, THEIR FITNESS FOR ANY PARTICULAR PURPOSE, OR THEIR CONFORMANCE TO THE PROVISIONS AND SPECIFICATIONS OF ANY ORDER OR DOCUMENTATION; (B) WE MAKE NO REPRESENTATION OR WARRANTY REGARDING THE VOLUME OF RESERVATIONS OR AMOUNT OF REVENUES THAT THE FACILITY MAY ATTAIN THROUGH THE USE OF THE CRISP SERVICES OR THAT YOUR RESERVATIONS OR REVENUE WILL INCREASE; AND (C) WE MAKE NO REPRESENTATION OR WARRANTY REGARDING ANY OF THE DATA THAT YOU MAINTAIN OR THE PREVENTION OF ANY VIRUSES OR MALWARE, AND WE ARE NOT RESPONSIBLE FOR THE LOSS OF ANY DATA OR THE INTRODUCTION OF ANY VIRUSES OR MALWARE, EVEN IF SUCH LOSS OR INTRODUCTION RESULTS FROM OUR PERFORMANCE OF SERVICES HEREUNDER. YOU ARE RESPONSIBLE FOR ENSURING THAT YOUR DATA IS ADEQUATELY BACKED UP AND THAT YOU MAINTAIN CURRENT UPDATED ANTI-VIRUS/ANTI-MALWARE SOFTWARE.

4.2 YOU, ON BEHALF OF YOURSELF, YOUR SUCCESSORS AND ASSIGNS, HEREBY WAIVE, RELEASE AND RENOUNCE ALL CLAIMS OR CAUSES OF ACTION THAT YOU MAY HAVE AGAINST US, OUR AFFILIATES, OR OUR OR THEIR OFFICERS, DIRECTORS OR AGENTS, ARISING OUT OF THE SERVICES UNLESS DUE TO OUR WILLFUL MISCONDUCT.

**5. Damage Limitation.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO EVENT SHALL WE OR ANY AFFILIATE BE LIABLE FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR REVENUES (COLLECTIVELY, “**INDIRECT DAMAGES**”) IN CONNECTION WITH THE SERVICES, EVEN IF WE HAD BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE REASONABLY FORESEEN SUCH DAMAGES. IN ADDITION, FOR DIRECT DAMAGES CAUSED BY US (AND ANY INDIRECT DAMAGES TO THE EXTENT THAT THE ABOVE LIMITATION IS NOT RECOGNIZED BY A COURT OR OTHER AUTHORITY) ANY CLAIM SHALL BE LIMITED TO THE TOTAL AMOUNT PAYABLE BY YOU FOR THE

SERVICES DURING THE TERM OF THIS AGREEMENT. THE ABOVE LIMITATIONS ON LIABILITY APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE.

**6. Term.** This Agreement will be effective from the date of execution by you and us, and unless earlier terminated in accordance with this Agreement, shall continue in full force and effect until notice of termination of your Oracle Agreement, or the expiration of the term of your license to operate the Facility under the Franchise Agreement, whichever comes first.

## **7. Termination and Other Remedies.**

7.1 At our option, we may terminate this Agreement immediately: (a) If you fail to make any payment required pursuant to this Agreement, the Oracle Agreement or any other agreement between you and us, and such failure continues uncured for a period of 10 days after we give you written notice; (b) If you breach any other covenant, warranty or agreement under this Agreement, the Oracle Agreement or any other agreement between you and us and the breach continues uncured for a period of 30 days after we or Oracle give you written notice; and/or (c) If the license granted under the Franchise Agreement terminates for any reason and is not immediately replaced by an express written agreement between you and us for a license to continue operation of the Facility.

## **8. Ownership of Guest Information.**

8.1 We shall own all Guest Information that is within our possession or any service provider holding such information on our behalf, and you shall own all Guest Information that is within your possession or any service provider holding such information on your behalf. To the extent that we and you both possess identical Guest Information, our and your respective ownership rights with regard to such Guest Information shall be separate and independent from one another.

## **9. Additional Provisions.**

9.1 Costs and Expenses. The non-prevailing party will pay the costs and expenses incurred, including reasonable attorneys' fees and the expenses, by the prevailing party to enforce this Agreement.

9.2 Force Majeure. If performance by you or us is delayed or prevented because of strikes, inability to procure labor or materials, defaults of suppliers or subcontractors, delays or shortages of transportation, failure of power or telephone transmissions, restrictive governmental laws or regulations, weather conditions, or other reasons beyond the reasonable control of the party, then performance of such acts will be excused and the period for performance will be extended for a period equivalent to the period of such delay. Delays or failures to pay resulting from lack of funds will not be deemed delays beyond your reasonable control.

9.3 Notices. Notices will be effective if reduced to writing and delivered, by next day delivery service, with proof of delivery, by facsimile transmission immediately followed by first class mailing of the original material, or mailed by certified or registered mail, return receipt requested, to the appropriate party at its address in this Agreement or to such party at such address

as may be designated by notice in accordance with this Section. Notices will be deemed given on the date delivered or date of attempted delivery, if service is refused.

9.4 Your Forms. We are not bound by any terms of your purchase order forms or notices of acceptance which attempt to impose any conditions at variance with our terms and conditions included in this Agreement or in our invoices, standards manuals, technical specifications or elsewhere. Our failure to object to any provision contained in your printed form is not a waiver of any provision of this Agreement.

9.5 Oral Modifications. This Agreement may not be amended, modified or rescinded except in writing, signed by both parties and any attempt to do so shall be void and of no effect.

9.6 Governing Law/Venue. This Agreement is to be governed by and construed in accordance with the laws of the State of New Jersey, USA, without regard to the conflicts of law provisions thereof. You consent to the non-exclusive personal jurisdiction of the New Jersey state courts situated in Morris County, New Jersey, USA and the United States District Court for the District of New Jersey, USA. You waive objection to venue in any such courts.

9.7 Waiver. If either you or we fail to exercise any right or option at any time under this Agreement, such failure will not be deemed a waiver of the exercise of such right or option at any other time or the waiver of a different right or option. Termination of this Agreement by either you or we will not waive your obligation to make any payments then due to us under this Agreement.

9.8 Severability. If any provision of this Agreement is determined to be void or unenforceable, the provision shall be deemed severed from the Agreement and the remainder of this Agreement shall continue in full force and effect.

9.9 Entire Agreement. This Agreement (including all Appendices, Exhibits, Schedules and attachments) supersedes all prior oral and written agreements and understandings and, together with the order forms attached to this Agreement, constitutes the entire Agreement between the parties with respect to this subject matter. Nothing in this or any other related agreement, however, is intended to disclaim any representations we made in the Franchise Disclosure Document furnished to you by us.

9.10 No Third Party Beneficiary. This Agreement is intended for the sole benefit and protection of the named parties, and no other persons or entities shall have any cause of action or right to payments made or received under this Agreement.

9.11 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties, their successors and permitted assigns. Notwithstanding the above, you may not assign this Agreement without our express written consent, except as permitted under the Franchise Agreement.

9.12 Mediation. The parties agree that all disputes arising under this Agreement may be submitted to non-binding mediation under the National Franchise Mediation Program supervised by the Center for Public Resources (CPR) Institute for Dispute Resolution, 366 Madison Ave., New York, NY 10017; email: [info@cpradr.org](mailto:info@cpradr.org).

9.13 Survival. The provisions of Sections 3, 4 and 5 and any other provisions which due to their content should have continuing life shall survive the termination of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date set forth in the preamble to this Agreement.

**WE:**

BY: \_\_\_\_\_

Vice President

**YOU, as Franchisee:**

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

By signing this Agreement, you represent that you are authorized to enter into this Agreement on behalf of the Franchisee.

**Your address:**

**Address for Deliveries (if different):**

**Our address: 22 Sylvan Way, Parsippany, New Jersey 07054, USA**

**OPERA SUPPLEMENTAL SERVICES AGREEMENT**  
**SCHEDULE A**

**Definitions**

**“Additional Services”** means services performed pursuant to this Agreement that are in addition to CRISP Services and HTCS Services, and may include, without limitation, services relating to hardware installation, hardware upgrades, data recovery, configuration, and debugging.

**“Affiliate(s)”** means any and all of the subsidiaries and affiliates, including without limitation each of the corporations, limited liability companies, partnerships, firms, associations, businesses, organizations, and/or other entities that directly or indirectly (either presently or in the future and/or through one or more intermediate entities) control, are controlled by, or are under common control of, but not limited to, Wyndham Hotel Group, LLC.

**“Brand Information Source Portal”** means an online gateway for communications and important notifications between us and you by providing access to reports, guest feedback, marketing resources, brand standards, quality assurance, training resources and online bill payment. As of the date of this Agreement, the Brand Information Source Portal is currently called MyPortal.

**“Brand System”** means the business format franchise system and method of doing business defined under the Franchise Agreement.

**“CRISP Services”** means the Central Rate and Inventory Support Program services that we may provide to the Facility as described in the CRISP Services Description Document, the current form of which is attached hereto as Schedule C.

**“Facility”** means the Brand System guest lodging facility which you are licensed by us to operate using the Brand System under the Franchise Agreement.

**“Franchise Agreement”** means the Franchise Agreement between you and us granting to you the non-exclusive right to operate the Facility under the Brand System.

**“Franchisee”** means the person or entity set forth in the introductory paragraph of this Agreement, its successors and assigns, as permitted in the Franchise Agreement.

**“Guest Information”** means any names, email addresses, phone numbers, mailing addresses and other information about guests and customers of the Facility, including without limitation stay information, that either we or you or a person acting on behalf of one or both of us and/or you receives from or on behalf of the other or any guest or customer of the Facility or any other third party.

**“HTCS Services”** means the Hotel Technology Client Support services that we may provide to the Facility as described in the HTCS Services Description Document, the current form of which is attached hereto as Schedule D.

**“PMS Vendor Management”** means coordination of vendors in support of troubleshooting issues related to the Services.

**“Reservation System”** means the applicable computerized central reservation system, or any replacement thereof, that we maintain (directly or by subcontracting with an affiliate or one or more third parties) and/or use, for the purpose of allowing the placing and receiving of lodging reservations, as well as such other services as we may develop and provide in the future, upon conditions including fees which we, in our sole discretion, may place in effect under the Franchise Agreement.

**“Services”** means the CRISP Services and HTCS Services that we provide as described in Section 1, and Schedule C and Schedule D, respectively, as well as any Additional Services.

**OPERA SUPPLEMENTAL SERVICES AGREEMENT**  
**SCHEDULE B**

**Fees and Payments**

The following fees shall be payable by you for the OPERA via a software-as-a-service solution (“SaaS”):

<b>OPERA Product</b>	<b>Monthly Fee (based on number of rooms)</b>	<b>One-Time Set-up Management and Training Fee</b>
OPERA Lite	\$346 – \$470	\$12,925 plus \$450/Interface, \$5,000 EMV Interface and \$3,150/OXI Interface
OPERA Standard	\$360 – \$752	\$17,700 plus \$450/Interface, \$5,000 EMV Interface and \$3,150/OXI Interface
OPERA Premium	\$362 – \$752	\$23,075 plus \$450/Interface, \$5,000 EMV Interface and \$3,150/OXI Interface

## **OPERA SUPPLEMENTAL SERVICES AGREEMENT**

### **SCHEDULE C**

#### **Terms of CRISP Services**

Franchisee agrees to establish the best available rate “**BAR**”; provided, however that Franchisee acknowledges and agrees that it will retain ultimate control over all rate audit decisions. Subject to the foregoing, Franchisee explicitly authorizes Franchisor to make adjustments to the Facility’s rates, inventory and restrictions in order to comply with the Required Policies and Practices without advance notice to Franchisee. Franchisor shall not, however, change the BAR without authorization from Franchisee. In addition, Franchisee may modify or reverse any change Franchisor may make by notifying Franchisor, provided that such modification or reversal is consistent with the Required Policies and Practices. Franchisee’s general manager shall be its primary representative who shall have the authority to make rate audit decisions for the Facility, unless Franchisee designates another Facility representative in writing to Franchisor. Franchisor may communicate with Franchisee’s representative by telephone, e-mail or in another manner, and Franchisor may rely on any communication which Franchisor believes, in good faith, is from Franchisee’s representative. Any know-how, algorithms, formulae, data, recommendations, documentation, software, or other materials or information that Franchisor furnishes to Franchisee in connection with the CRISP Services shall be deemed “Confidential Information” as defined in the Franchise Agreement and shall be subject to all prohibitions on disclosure, copying or use of Confidential Information under the Franchise Agreement.

#### **Overview of CRISP Services**

##### **Property Audit & Setup**

In consultation with the Facility representative, simplify rates and room type structures by:

- Verifying that all required rate plans are loaded correctly in the SaaS solution;
- Verifying that local rates are available for sale in the distribution channels selected by the Facility;
- Verifying that all brand standard rate plans are available for sale; and
- Verifying that all hotel specific data is accurate and up to date in all systems.

##### **Rate & Inventory Management**

Review inventory/rate visibility and consistency across all distribution channels. Key services include:

- Monitoring Facility inventory and rate settings in the SaaS solution;
- Identifying and advising Franchisee of erroneous rate plans;
- Monitoring rates across distribution channels and checking for accuracy in third party channels; and
- Coordinating participation in key corporate accounts and marketing programs.

**OPERA SUPPLEMENTAL SERVICES AGREEMENT**  
**SCHEDULE D**

**HTCS Services**

HTCS Services include the following:

1. Diagnosing and resolving Facility network problems per established troubleshooting procedures.
2. Diagnosing and resolving interface problems per established troubleshooting procedures.
3. Diagnosing and resolving workstation configuration and environment problems.
4. Diagnosing and resolving host reservation services communication issues per established troubleshooting problems.
5. Maintaining automated tracking support of all significant incidents.
6. Maintaining staff proficient on current software and functionality.
7. Assisting the Facility with issue resolution related to tools that interface with the services and coordinating with third party providers when necessary.
8. Providing first-level support for the SaaS solution, which shall include the: Opera PMS and any additional interfaces included in the SaaS solution.

**EXHIBIT C-5**

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**THREE PARTY AGREEMENT  
AMONG  
THE COMPANY, FRANCHISEE AND LENDER**

THIS AGREEMENT (“Agreement”) is made and entered into as of \_\_\_\_\_, 20\_\_\_\_, by and among \_\_\_\_\_ having an office at \_\_\_\_\_ (hereinafter called the “Lender”), \_\_\_\_\_ having an office at \_\_\_\_\_ (hereinafter called the “Franchisee” or “Member”), and \_\_\_\_\_, a \_\_\_\_\_ corporation, having an office at 22 Sylvan Way, Parsippany, New Jersey 07054 (hereinafter called the “Company”).

**Recitals.** Franchisee and Company entered into a franchise or membership agreement, dated \_\_\_\_\_ and certain related agreements (“Primary Agreement”), under which Franchisee will operate and maintain a Chain Facility located at \_\_\_\_\_, designated as Unit # \_\_\_\_\_ (“Facility”). Lender has or is about to advance funds to Franchisee and desires to be granted certain rights in respect of the Primary Agreement as part of the collateral security for its loan. Franchisee has requested that Company consent to the grant of a security interest in the Primary Agreement and grant certain other rights to Lender. Company will issue its consent to the collateral assignment of the Primary Agreement and will grant such rights subject to the terms and conditions of this Agreement and the undertakings by Lender and Franchisee set ~~forth~~ below.

NOW, THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the parties, the parties agree as follows:

1. The Primary Agreement is in full force and effect and there are no uncured notices of default issued to Franchisee by Company under the Primary Agreement on the date of this Agreement.

2. Company consents to the collateral assignment of and granting of a security interest in the Primary Agreement by Franchisee to Lender as security for Franchisee’s obligations to Lender. Unless and until Lender notifies Company in writing that it has exercised its rights to the collateral as secured party under the collateral assignment and assumed the benefits and burdens of the Primary Agreement, Company may rely upon Franchisee’s authority to act on its own behalf on all matters relating to the Primary Agreement and the franchise relationship between Company and Franchisee.

3. The following provisions apply to Franchisee’s defaults under the Primary Agreement and events that give Company the right to terminate the ~~franchise relationship~~ franchisererelationship.

3.1 If Franchisee defaults under the Primary Agreement or an event occurs that permits Company to terminate the license granted under the Primary Agreement, Company will notify Lender of such default or event by sending a copy of the default notice to the Franchisee, as and when sent to the Franchisee, or by separate written notice. **Company’s failure to give**

**notice to the Lender shall not affect its rights under the Franchise Agreement with regard to Franchisee, nor shall the Company be liable to Lender for any damages resulting directly or indirectly from such failure.**

3.2 Lender may, but is not obligated to, undertake to cure such default on behalf of Franchisee within the time permitted, if any, under the default notice and the Primary Agreement. Unless Company otherwise consents in writing, Lender's time to cure the default will be the same as Franchisee's time to cure under the terms of the Primary Agreement and the default notice.

4. The following provisions apply when and if Lender forecloses on the Facility or otherwise acquires, directly or through an affiliate, title to or possession of the Facility.

4.1 In the event Lender or an affiliate takes possession of the Facility at a foreclosure sale or by other means, Lender will succeed to and assume the rights and obligations of Franchisee under the Primary Agreement, without payment of an application fee, initial franchise fee or re- license fee on the date (the "Possession Date") Lender or an affiliate takes actual or constructive possession of the Facility. Lender agrees to sign and deliver an assumption agreement with Company to confirm its assumption of the Primary Agreement and to pay an administrative fee of \$7,500 upon execution promptly after the Possession Date. Lender will then be deemed the successor to Franchisee and will be responsible to remedy all defaults of Franchisee under the Primary Agreement capable of being cured by Lender and perform in the capacity of "Franchisee" under the Primary Agreement in all respects.

4.2 Lender or its affiliate shall provide proof of insurance meeting Company's requirements for Chain Facilities within 5 business days after the Possession Date.

4.3 Company will furnish Lender with Franchisee's franchise account receivable aging statements on request. Lender will pay any undisputed amounts shown on such statements within 15 days after receipt. The parties will cooperate and work diligently to resolve any franchise account disputes.

4.4 Lender must cure any quality assurance default pending at the Possession Date within 60 days, or enter into a quality improvement agreement within 30 days after the Possession Date to cure the defaults, and must restore the quality assurance scores of the Facility to the entry level required for conversion Chain Facilities acceptable to Company within 120 days after the Possession Date. Company will furnish Lender with a copy of the latest quality assurance inspection report generated before the Possession Date at Lender's request.

4.5 Any subsequent Transfer (as defined in the Primary Agreement) of the Facility by Lender or its affiliate shall be governed by the transfer provisions of the Primary Agreement.

5. In the event Lender causes or participates in the appointment of a receiver for the Facility or Franchisee, Company may exercise its right to terminate the license or the Primary Agreement, unless ~~(i)~~

(i) Lender or the Receiver remedy all defaults of Franchisee then pending under the Primary Agreement within 30 days after the appointment of the Receiver, (ii) the Receiver operates the

Facility in compliance with the Primary Agreement and pays all fees accruing under the Primary Agreement during the period of the Receivership for the pendency of the Receivership, and (iii) Receiver signs and delivers to Company an assumption agreement for the Primary Agreement and pays a \$7,500 administrative fee upon execution.

6. Lender shall, when it commences any judicial or non-judicial foreclosure or similar action because of any default by Franchisee under the terms of its agreements with Lender, notify Company in writing of such action. Lender will send Company copies of any related pleadings, notices, agreements, or other documents published, sent or filed by Lender, upon Company's request.

7. In the event any bankruptcy, insolvency, receivership or similar case is filed by or against Franchisee, Company may exercise its rights and remedies under the Primary Agreement, with permission from or as may be required by a court of law, if Franchisee defaults or has defaulted under the Primary Agreement, whether or not Lender obtains relief to foreclose upon or take possession of the Facility.

8. Franchisee consents to the transmittal of any and all information between Lender and Company from time to time about Franchisee's account with Company, the status of the Primary Agreement, the franchise relationship, and the loans from Lender.

9. Lender will assign this Agreement to any successor holder of Lender's interest in the mortgage or other loan to which this Agreement relates, unless Lender retains the right and obligation to service the loan on behalf of its successor in interest.

10. This Agreement terminates automatically when (i) Lender assigns its interest in the loan to a third party not affiliated with or controlled by Lender ~~and Lender terminates this Agreement by written notice to Company, if and only if its successor refuses to accept the assignment and assume the obligations of Lender under this Agreement,~~ (ii) Company or Franchisee terminates the license or the Primary Agreement in accordance with its terms after giving Lender any notice required under this Agreement and the cause for termination, if any, remains unremedied after the expiration of any applicable cure periods, (iii) Lender no longer has a security interest in the Facility or Lender's loan is paid in full; (iv) the term of the license under the Primary Agreement expires, or ~~(iv)~~ Lender assumes the Primary Agreement under Section 4. There is no equitable right of redemption applicable to this Agreement.

11. All notices sent by any party will be sent to the following addresses, unless a party gives the other parties written notice that notices to it should be sent to a different address. Notices may be given by facsimile transmission with the original mailed via first class mail, postage prepaid, by overnight or courier service with receipted delivery, or by certified or registered first class mail, postage prepaid, return receipt requested.

Company:       \*\*\*\*\*  
                  22 Sylvan Way Parsippany, NJ 07054 Attn: Senior Vice President, Contracts  
                  Administration

Lender:

\*\*\*\*\*

\* Address

Address

Attn: \*\*\*\*\*

Franchisee: \*\*\*\*\*

Address

Address

Attn: \*\*\*\*\*

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the parties hereto have duly signed and executed this Agreement as of the day and year first above written.

**COMPANY:**

\_\_\_\_\_

By: \_\_\_\_\_

**Senior Executive Vice President** Contracts Administration

**LENDER:**

~~Attest: \_\_\_\_\_~~

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_ ~~Attest: \_\_\_\_\_~~

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

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

**FRANCHISEE:**

\_\_\_\_\_

By: \_\_\_\_\_ ~~Attest: \_\_\_\_\_~~

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

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

## REQUEST FOR THREE PARTY AGREEMENT

TO: Vice President, Franchise Sales & Development

\_\_\_\_\_  
(Franchisor Name) (“Franchisor”)

RE: Proposed \_\_\_\_\_ Brand Facility No. \_\_\_\_\_ (“Facility”)

To be Located at:

\_\_\_\_\_

DATE: \_\_\_\_\_, 20\_\_\_\_

The undersigned duly authorized representative of the proposed Facility’s franchisee (“Franchisee” or “Member”) named below requests that Franchisor offer and issue a Three Party Agreement (“TPA”) in favor of the “Lender” named below for the purpose of inducing Lender to loan funds (the “~~loan~~Loan”) to Franchisee secured by Franchisee’s interest in the Facility. Franchisee understands and agrees to the following conditions that apply to the offer and issuance of the TPA, which is subject to the prior completion of the proposed transaction between Franchisor and Franchisee to enter into a Franchise or Membership Agreement for the Facility:

1. Franchisee agrees to and submits herewith a non-refundable Three Party Agreement/Comfort Letter Fee in the amount of \$1,000 for Franchisor’s review and processing of this request. The Three Party Agreement/Comfort Letter Fee is non-refundable even if Franchisor and Lender do not enter into a TPA. In addition, Franchisor will not review Franchisee’s request for a TPA until the Three Party Agreement/Comfort Letter Fee is received by Franchisor.

2. Franchisee authorizes Franchisor to release (but Franchisor is under no obligation to do so unless first specifically asked in writing) to Lender and its counsel information about the history and current status of the Franchise Agreement for the Facility, including without limitation, the status of the Facility’s quality assurance, reservation system service (active or suspended) and franchise fee account. Franchisor may provide a copy of the Franchise Agreement to Lender. Franchisee represents and warrants to Franchisor that Franchisee has disclosed to Lender the current status of the Franchise Agreement and Franchisee’s performance under the same and that Franchisee will advise Lender of any changes in that status through the time of closing of the loan.

3. Franchisee requests that upon receipt of this Requestrequest form executed by the Franchisee and its Guarantors, Franchisor prepare and offer to Lender its standard form of TPA, which will require Lender or an affiliate to assume the Franchise Agreement for the Facility and cure Franchisee’s defaults if Lender or an affiliate takes possession of the Facility after foreclosure or by deed in lieu of foreclosure. Such standard form contains Franchisor’s consent

for Franchisee to pledge and assign the Franchise Agreement to Lender. Franchisor will offer the TPA only after Franchisee signs the Franchise Agreement and all related agreements, submits all documents required for closing the Franchise Agreement transaction, and pays Franchisor the initial or affiliation fee required at the time of such closing.

4. ~~3~~ Franchisee acknowledges and confirms that Franchisor shall be indemnified and held harmless by Franchisee and the Guarantors of Franchisee's obligations under the Franchise Agreement against any claim, liability, judgment, settlement, cause of action, and damage award in favor of Lender against Franchisor arising from or relating to Franchisee's breach of this ~~Request~~request or the TPA, under the indemnification provision of the Franchise Agreement, and that Franchisee's indemnification obligation represents the consideration paid by Franchisee to Franchisor to offer and issue the ~~Three-Party Agreement~~TPA. Franchisee acknowledges Franchisor is under no obligation to offer or issue the TPA, which inures to the primary benefit of Franchisee and its Guarantors. Franchisee and the Guarantors have no liability for transactions and occurrences accruing after Lender assumes and accepts the Franchise Agreement.

5. ~~4~~ Franchisee acknowledges that Franchisor has no obligation to modify the standard form of TPA and shall have no liability to Franchisee or any Guarantor as result of the inability of Lender and Franchisor to reach agreement on the form of ~~Three-Party Agreement~~TPA. Franchisee and the Guarantors each jointly and severally release any and all causes of action and claims against Franchisor arising from the furnishing to Lender of information about the Facility, the Franchise Agreement or Franchisee under this ~~Request~~request or the TPA, or the denial of the loan or refusal to close the loan arising from the inability of the parties to agree upon and execute a mutually acceptable TPA.

6. ~~5~~ Franchisee covenants to forward to Lender copies of all default notices from Franchisor received by Franchisee which the loan documents require that Lender receive.

7. ~~6~~ If Franchisee requests certain changes to the Franchise Agreement in order for the loan to qualify for financing assistance from the U.S. Small Business Administration, Franchisor will effect such changes so long as the Agreement maintains the mutuality of obligations, rights and powers between Franchisee and Franchisor as to any affected provision.

8. ~~7~~ Franchisee acknowledges that the TPA shall not be effective and binding upon Franchisor unless and until Franchisor receives at its home office in Parsippany, New Jersey an original signed by Franchisee and Lender. Franchisor will offer the TPA to Lender subject to such condition as to effectiveness. Franchisee undertakes to confirm with Lender at the closing of the loan that the TPA has been fully executed and sent to Franchisor. Franchisor may, in its sole discretion, withhold its signature and delivery of the TPA until it has received an original instrument signed by Franchisee and Lender.

9. ~~8~~ Upon its execution and return to Franchisor, this request shall be effective as an Addendum to the Franchise Agreement and subject to its terms and conditions, except that any limitation therein or in the Guaranty as to the principal amount of liability shall not apply to the obligations set forth in Section ~~34~~34 above.

Submitted by and behalf of the Franchisee named below by the undersigned, who personally represents and warrants to Franchisor that Franchisee has duly authorized the signer to execute,

deliver and cause Franchisee to perform this ~~Request~~request. This ~~Request~~request may be signed and submitted in multiple counterparts and shall be binding if sent by fax to Franchisor.

Franchisee: \_\_\_\_\_

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

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

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

\_\_\_\_\_  
Signature

Lender: \_\_\_\_\_

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

Attention: \_\_\_\_\_

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

Telephone: \_\_\_\_\_

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## LENDER NOTIFICATION AGREEMENT RELATING TO FRANCHISE AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into as \_\_\_\_\_, \_\_\_\_\_, by and among \_\_\_\_\_, ("Lender"), and \_\_\_\_\_, having an office at \_\_\_\_\_ at \_\_\_\_\_ ("Franchisee" or "Member"), and \_\_\_\_\_, a \_\_\_\_\_ corporation, having an office at 22 Sylvan Way, Parsippany, New Jersey 07054 (the "Company").

**Recitals.** Franchisee and Company entered into a Franchise or Membership Agreement dated \_\_\_\_\_, \_\_\_\_\_, and certain related Agreements (collectively the "Franchise Agreement" or "Membership Agreement"). The Franchisee agreed among other things to **operate**

**and operate and** maintain a \_\_\_\_\_

-Facility located at \_\_\_\_\_

-designated by Company as Unit

# \_\_\_\_\_ (the "Unit"). Franchisee has obtained or is about to obtain from Lender a loan (the "Loan") in which funding is to be provided with the assistance of the United States Small Business Administration ("SBA") [and a local Certified Development Company ("CDC")]. The address and contact party for Lender, [CDC] and SBA are listed on Exhibit A.

NOW, THEREFORE, in consideration of the mutual promises below, and for good and valuable consideration in hand paid by each of the parties to the others, the receipt and sufficiency of which all of the parties acknowledge, the parties agree as follows:

1. The Franchise Agreement is in full force and effect, and Company has sent no official notice of default to Franchisee under the Franchise Agreement that remains uncured on the date hereof.

2. If Franchisee defaults or an event occurs that under the Franchise Agreement will give Company the right to terminate the **License license** granted under the Franchise Agreement **(the "License")**, or the Franchise Agreement, if the License is not then in effect, the Company will give Lender, [CDC] and SBA notice of such default or event by sending via first class mail a copy of the notice sent to the Franchisee, as and when sent. All notices sent by the Company will be sent to Lender, [CDC] and SBA to the addresses set forth on Exhibit A unless Lender, [CDC] or SBA gives the Company written notice addressed to the Vice President – Franchise Administration at the above address that notices should be sent to a different address. **Company's failure to give notice to Lender, [CDC] and SBA shall not affect its rights under the Franchise Agreement with regard to Franchisee, nor shall the Company be liable to Lender, [CDC] and SBA for any damages resulting directly or indirectly from such failure.** Lender, [CDC] and SBA may, but none are obligated to, undertake to cure such default on behalf of Franchisee within the time permitted, if any, under the default notice and the Franchise Agreement.

3. Franchisee consents to the transmittal of any and all information about Franchisee among Lender, [CDC] or SBA and Company from time to time.

4. Company will not unreasonably withhold, delay or condition its consent to any proposed Transfer (as defined in the Franchise Agreement) requiring Company's consent under Section 9 of the Franchise Agreement.~~5.~~ Company will provide to Lender, [CDC] and SBA copies of its records relating to Franchisee's outstanding accounts receivable to Company and quality assurance inspections, no more than once every 90 days, upon receipt of a ~~written request~~written request.

~~5.~~ 6. Neither Company nor Franchisee will exercise any right to terminate the License or the Franchise Agreement without cause, including any rights added by special stipulation, without first obtaining the consent of SBA [and CDC].

~~6.~~ 7. This Agreement automatically terminates on the earliest to occur of the following: (i) a Termination occurs under the Franchise Agreement; (ii) the Loan is paid; or (iii) SBA [and CDC] no longer have any interest in the Loan.

IN WITNESS WHEREOF, the parties hereto have duly signed and executed this Agreement as of the day and year first above written.

**COMPANY:**

By: \_\_\_\_\_

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

Title: Vice President

**LENDER:**

By: \_\_\_\_\_

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

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

**FRANCHISEE:**

By: \_\_\_\_\_

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

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

## EXHIBIT A

1. Address and contact for SBA:

2. Address and contact for CDC:

3. Address and contact for Lender:

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**REQUEST FOR LENDER NOTIFICATION AGREEMENT  
TO ASSIST WITH SBA FINANCING**

To: Senior Vice President, Franchise Administration Services

\_\_\_\_\_ (“Franchisor”)  
(Franchisor Name)

Re: \_\_\_\_\_ Brand Facility No. \_\_\_\_\_ (“Facility”)

Located at: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

The undersigned duly authorized representative of the Facility’s franchisee (“Franchisee” or “Member”) named below requests that Franchisor offer and issue a Lender Notification Agreement (“LNA”) in favor of the “Lender”, the Certified Development Company (“CDC”) (if any) and the United States Small Business Administration (“SBA”), all as named below for the purpose of inducing Lender to loan funds (the “~~loan~~Loan”) to Franchisee secured by Franchisee’s interest in the Facility, under the SBA’s 7(a) or 504 financing programs. Lender, SBA and the CDC are referred to as the “Lender Group”. Franchisee understands and agrees to the following conditions that apply to the offer and issuance of the LNA:

1. Franchisee authorizes Franchisor to release (but Franchisor is under no obligation to do so unless first specifically asked in writing) to the Lender Group and their respective counsel information about the history and current status of the Franchise Agreement for the Facility, including without limitation, the status of the Facility’s quality assurance, reservation system service (active or suspended) and franchise fee account. Franchisor may provide a copy of the Franchise Agreement to the Lender Group. Franchisee represents and warrants to Franchisor that Franchisee has disclosed to the Lender Group the current status of the Franchise Agreement and Franchisee’s performance under the same, and that Franchisee will advise the Lender Group of any changes in that status through the time of closing of the loan.
2. Franchisee requests that upon receipt of this ~~Request~~[request](#) form executed by the Franchisee and its Guarantors, Franchisor prepare and offer to the Lender Group its standard form of LNA, which will offer Lender the opportunity to cure Franchisee’s defaults under the ~~Franchise Agreement~~[Franchise Agreement](#).
3. Franchisee acknowledges and confirms that Franchisor shall be indemnified and held harmless by Franchisee and the Guarantors of Franchisee’s obligations under the Franchise Agreement against any claim, liability, judgment, settlement, cause of action, and damage award in favor of any of the Lender Group against Franchisor arising from or relating to Franchisee’s breach of this ~~Request~~[request](#) or the LNA, under the indemnification provision of the Franchise Agreement, and that Franchisee’s indemnification obligation represents the consideration paid by

Franchisee to Franchisor to offer and issue the LNA. Franchisee acknowledges Franchisor is under no obligation to offer or issue the LNA, which inures to the primary benefit of Franchisee and its Guarantors.

4. Franchisee acknowledges that Franchisor has no obligation to modify the standard form of LNA and shall have no liability to Franchisee or any Guarantor as result of the inability of the Lender Group and Franchisor to reach agreement on the form of LNA. Franchisee and the Guarantors each jointly and severally release any and all causes of action and claims against Franchisor arising from the furnishing to the Lender Group of information about the Facility, the Franchise Agreement or Franchisee under this ~~Request~~request or the LNA, or the denial of the loan or refusal to close the loan arising from the inability of the parties to agree upon and execute a mutually acceptable LNA.

5. Franchisee covenants to forward to any of the Lender Group copies of all default notices from Franchisor received by Franchisee which the loan documents require that such member of the Lender Group receive.

6. If Franchisee requests certain changes to the Franchise Agreement in order for the loan to qualify for financing assistance from the SBA or CDC, Franchisor will effect such changes so long as the Agreement maintains the mutuality of obligations, rights and powers between Franchisee and Franchisor as to any affected provision.

7. Franchisee acknowledges that the LNA shall not be effective and binding upon Franchisor unless and until Franchisor receives at its home office in Parsippany, New Jersey an original signed by Franchisee and all of the Lender Group. Franchisor will offer the LNA to Lender subject to such condition as to effectiveness. Franchisee undertakes to confirm with Lender at the closing of the loan that the LNA has been fully executed and sent to Franchisor. Franchisor may, in its sole discretion, withhold its signature and delivery of the LNA until it has received an original instrument signed by Franchisee and all of the Lender Group.

8. Upon its execution and return to Franchisor, this request shall be effective as an Addendum to the Franchise Agreement and subject to its terms and conditions, except that any limitation therein or in the Guaranty as to the principal amount of liability shall not apply to the obligations set forth in Section 3 above.

Submitted by and behalf of the Franchisee named below by the undersigned, who personally represents and warrants to Franchisor that Franchisee has duly authorized the signer to execute, deliver and cause Franchisee to perform this ~~Request~~request. This ~~Request~~request may be signed and submitted in multiple counterparts and shall be binding if sent by fax to Franchisor.

**Franchisee:** \_\_\_\_\_

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

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

**Guarantors:** \_\_\_\_\_

Signature

\_\_\_\_\_

Signature

\_\_\_\_\_

Signature

**Lender:** \_\_\_\_\_ **Address:** \_\_\_\_\_

**Attention:** \_\_\_\_\_

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

**Telephone:** \_\_\_\_\_

**CDC:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Attention:** \_\_\_\_\_

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

**Telephone:** \_\_\_\_\_

**SBA Regional Office:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Attention:** \_\_\_\_\_

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

**Telephone:** \_\_\_\_\_

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**EXHIBIT C-6**

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Unit Site  
No:  
Location:

## TERMINATION AND RELEASE AGREEMENT

This TERMINATION AGREEMENT (~~the~~this "Agreement") is dated as of \_\_\_\_\_, \_\_\_\_\_, ("Effective Date") among \_\_\_\_\_, a \_\_\_\_\_ corporation ("we" or "us"), \_\_\_\_\_, ("you" and "your") and \_\_\_\_\_ and \_\_\_\_\_ (collectively, the "Guarantors").

~~Recitals. This~~

### RECITALS

WHEREAS, this Agreement relates to that certain Franchise Agreement, dated \_\_\_\_\_, between us and you, and all ancillary documents and addenda thereto, (collectively, the "Prime Franchise Agreement") granting you a \_\_\_\_\_ System License (the "License") to operate a \_\_\_\_\_-room \_\_\_\_\_ guest lodging facility located at \_\_\_\_\_ and designated as Unit # Site No. (the "Unit Facility"). The Prime Franchise Agreement is incorporated by reference into this Agreement; and

~~You~~WHEREAS, you have requested the early termination of the License Franchise Agreement for the Unit. We Facility and we acknowledge your request. The parties desire to terminate the License and the Prime Franchise Agreement according to this Agreement.

~~In~~

### AGREEMENT

NOW, THEREFORE, it is hereby stipulated and agreed by and between the undersigned parties upon the foregoing premises and in consideration of the ~~premises and for~~premises, mutual covenants, and agreements set forth herein, and other good and valuable consideration, the ~~receipt and~~ sufficiency of which ~~the parties mutually acknowledge, the parties agree~~ is hereby acknowledged, as follows:

1. Termination Date. The License Franchise Agreement shall terminate on \_\_\_\_\_, 20\_\_\_\_ (the "Termination Date"). You acknowledge that on the Termination Date your ~~License~~License to operate the Unit Facility under the ~~System and Marks~~ System and Marks terminates and you are no longer authorized to \_\_\_\_\_ Marks. \_\_\_\_\_ Until the \_\_\_\_\_ display, use, or exploit the \_\_\_\_\_  
Termination Date, you must continue to perform all your obligations under the Prime Franchise Agreement, including payment of all Recurring Fees, commissions, charges and other fees, and maintenance of quality and operational standards as required by the System. Notwithstanding this Agreement, you may still be subject to default and/or termination for any breaches of the Prime Franchise Agreement occurring prior to the Termination Date. On and after the Termination

Date, we have no further obligation to provide any services to you under the [PrimeFranchise Agreement](#) or any other agreement. We have no obligation to provide reservation services for any guest stay that includes any night on or after the Termination Date. Access to our brand portal on the Internet will be terminated.

2. Reports; Payment of Fees.

(a) You will submit to us all Monthly Franchise Reports required under the [PrimeFranchise Agreement](#) for Gross Room Revenues accruing through the Termination Date no later than ten days after the Termination Date.

(b) (i) You will pay to us all outstanding Recurring Fees, commissions, charges and other fees accruing under the [PrimeFranchise Agreement](#) through the Effective Date. You will pay us this amount in certified funds when you sign and return this Agreement to us. We estimate that the accrued unpaid Recurring Fees and other amounts due under the [PrimeFranchise Agreement](#) are \$\_\_\_ as of \_\_, 20\_\_. (ii) You will pay us any additional Recurring Fees, commissions, charges and other fees accruing under the [PrimeFranchise Agreement](#) through the Termination Date no later than ten days after the Termination Date. (iii) You will pay any invoices we send to you after the Termination Date for additional amounts due under the [PrimeFranchise Agreement](#) and any other agreement with us within ten days after receipt.

(c) You and the Guarantors acknowledge the obligation to pay Liquidated Damages to us as a result of the early termination of the Franchise Agreement. However, you will not be liable to us for Liquidated Damages that we would otherwise assess because of the early termination of the [PrimeFranchise Agreement](#) provided this Agreement is fully executed and you fulfill your obligations under this Agreement. **OR**

(c) You and the Guarantors acknowledge the obligation to pay Liquidated Damages to us in the amount of \$\_\_\_, as a result of the early termination of the [PrimeFranchise Agreement](#). You and the Guarantors will execute and deliver to us the Promissory Note (the "Note") in the amount of \$\_\_\_\_\_, attached to this Agreement. The Note will be due and payable on \_\_\_\_\_, ~~unless the Note is cancelled under the~~ pursuant to its terms specified in the Note. **OR**

(c) You and the Guarantors acknowledge the obligation to pay Liquidated Damages to us as a result of the early termination of the Franchise Agreement. You will pay to us the amount of \$\_\_\_, to resolve your obligation to pay Liquidated Damages relating to the [PrimeFranchise Agreement](#). You will pay this amount to us in certified funds when you sign and return this Agreement to us.

3. De-identification.

(a) You acknowledge that the [PrimeFranchise Agreement](#) requires you to perform certain post-termination obligations. In addition to any such obligations specified in the [PrimeFranchise Agreement](#) no later than ten days after the Termination Date, you will (i) remove all signage and other items bearing the \_\_\_\_\_ trade name, trade marks and service marks ("Marks"); (ii) perform all post-termination obligations specified in the System Standards Manual; (iii) change all signs, billboards, and listings in telephone directories, travel guides,

hotel indices and similar materials in which the [UnitFacility](#) is identified as a \_\_\_\_\_ brand facility; and (iv) remove the Marks from any advertising or promotional activities on, around or directed towards the [UnitFacility](#), including any web sites, web pages, metatags or search engines. You will cooperate fully with us regarding any post-termination inspections by us to verify that the [UnitFacility](#) has been properly de-identified.

(b) You acknowledge that any unauthorized use of the Marks, or any marks confusingly similar to the Marks, shall cause irreparable harm for which there is no adequate remedy at law, entitling us to injunctive and other relief. Such relief shall include, but is not limited to, entering the [UnitFacility](#) without prior notice to remove software for accessing the Reservation System, all copies of the System Standards manuals, and all of our other personal property, and painting over or removing and purchasing for \$10.00, all or part of any interior or exterior Mark-bearing signage (or signage face plates), including billboards, whether or not located at the [UnitFacility](#) that you have not removed or obliterated. You shall promptly pay or reimburse us for the cost of removing such items, net of the \$10.00 purchase price.

(c) Effective on the Termination Date, all software licenses granted to you by us terminate. You will then cease to use any property management system software we provided to you, and we and our affiliates will have no further obligation to provide any hardware or software maintenance services to you. You have no further right to obtain any information about guests of the [UnitFacility that](#) we maintain in our enterprise data warehouse.

4. Guarantors. The undersigned Guarantors affirm that their obligations under the Guaranty to guarantee your payment and performance under the [PrimeFranchise](#) Agreement shall extend to your obligations to pay and perform under this Agreement.

5. Audit Rights. Notwithstanding the Termination Date, we retain the right to perform audits of the [UnitFacility](#)'s books and records for a period of two years after the Termination Date. You acknowledge that your audit and record keeping obligations under the [PrimeFranchise](#) Agreement survive until the expiration of the two year period. You agree promptly to pay or contest in good faith any audit assessment we issue if we determine that any additional Recurring Fees or other amounts may be due to us as a result of the audit. Your obligations under this Section terminate at the end of the two year audit period.

6. Representations and Warranties. You and the Guarantors each ~~represents~~[represent](#) and warrant to us that: (a) you have reported the Gross Room Revenues of the [UnitFacility](#) accurately and correctly calculated the fees due during the Term of the [PrimeFranchise](#) Agreement; (b) after the Termination Date, you and Guarantors will not retain possession of any Confidential Materials we provided to you; (c) you, Guarantors and your agents have not disclosed or made unauthorized copies of any Confidential Materials in violation of the [PrimeFranchise](#) Agreement; (d) no consent of any third party is required to enter into or perform this Agreement; (e) you and/or Guarantors have not filed a lawsuit or arbitration demand against us, our direct and indirect parent companies or affiliates; (f) you and/or Guarantors are not the subject of any pending bankruptcy, receivership, composition, assignment, or similar proceeding; (g) you have obtained the necessary authorization to execute and perform this Agreement; and (h) the persons negotiating and executing this Agreement on your behalf have been duly authorized by your owners and your governance board.

7. General Release.

(a) By entering into this Agreement, you and the Guarantors, for each of yourselves and your members, partners, officers, directors, employees, agents, shareholders, representatives, parent companies, subsidiaries, and affiliates, and their successors, heirs, and assigns, hereby release and waive any claims and causes of action against us, our officers, directors, employees, agents, shareholders, representatives, parent companies, subsidiaries, and affiliates, and the successors and assigns of each of them, arising out of the offer, sale, execution, delivery, performance, administration, and termination of the License, the PrimeFranchise Agreement and the related agreements regarding the UnitFacility. This release applies only to those claims that were or could have been asserted relating to the UnitFacility and the relationship between you and us and does not apply to any claims which may exist or which may arise in the future regarding any other guest lodging facility.

(b) Subject to Section 8 below, and your and Guarantors' complete performance of your obligations under this Agreement, the PrimeFranchise Agreement and any other UnitFacility-related agreements with us or our affiliates, we, for our self and our successors and assigns, hereby release and waive any claims and causes of action against you and Guarantors arising out of the offer, sale, execution, delivery, performance, and termination of the License, the PrimeFranchise Agreement and the related agreements regarding the UnitFacility. This release applies only to those claims that were or could have been asserted relating to the UnitFacility and the relationship between you and us and does not apply to any claims which may exist or which may arise in the future regarding any other guest lodging facility. If, at any time, the monies paid to us in consideration for our release are set aside as a preference under 11 U.S.C. §§ 547 and/or 544, or are otherwise ordered to be disgorged from us in connection with legal proceedings that involve you, our release provided herein shall be deemed null and void.

8. Survival. Despite the mutual releases provided in Section 7, the parties agree that the following survive: (a) the indemnification obligations specified in the PrimeFranchise Agreement continue in full force for any transactions, occurrences, and events occurring during the Term specified in the PrimeFranchise Agreement and for any transactions, occurrences, and events occurring during the period the UnitFacility was operated by you or on your behalf using the Marks; (b) the benefits of all insurance policies you obtained for the UnitFacility accrue to us for transactions, occurrences and events occurring during the period in which the PrimeFranchise Agreement was in effect or for any transactions, occurrences and events occurring during the period the UnitFacility was operated using the Marks; (c) the confidentiality obligations specified in this Agreement and the PrimeFranchise Agreement; and (d) the audit and record keeping provisions in the PrimeFranchise Agreement and Section 5 of this Agreement, for the time periods such provisions specify. The PrimeFranchise Agreement shall remain in effect solely as to such provisions until the expiration of the applicable statutes of limitation as to claims and actions that could be asserted by third parties.

9. Confidentiality. Each party hereto and their respective counsel agree that they will not disclose any of the terms of this ~~Settlement~~ Agreement or any amounts to be paid to us pursuant to this ~~Settlement~~ Agreement. The Parties and their respective counsel are not, however, precluded from disclosing the terms of the ~~Settlement~~ Agreement to their attorneys, accountants, tax preparers, paid financial advisors and/or any governmental, regulatory or judicial authority

which might compel the disclosure of this ~~Settlement~~-Agreement, or otherwise to the extent required by law or demanded by any governmental or regulatory entity. Notwithstanding the foregoing, if any of the parties is served with a subpoena or other governmental or judicial process seeking to compel the disclosure of this ~~Settlement~~-Agreement, it shall be the responsibility of the party that receives the subpoena or other governmental or judicial process to notify all other parties to this ~~Settlement~~-Agreement within 72 hours of receipt, thus affording the other parties to this ~~Settlement~~-Agreement an opportunity to move to quash the subpoena and/or oppose the entry of any order seeking to compel the disclosure of this ~~Settlement~~ Agreement. Additionally, in the event it becomes necessary to file this ~~Settlement~~-Agreement with a Court in any future enforcement action between the parties, the parties hereby agree to apply jointly for leave to file this ~~Settlement~~ Agreement under seal.

10. Consultation with Counsel. You and Guarantors acknowledge that each of you have consulted with, or had the opportunity to consult with, legal counsel of your own selection about this Agreement. You and Guarantors each understand how this Agreement will affect your legal rights and voluntarily enter into this Agreement with such knowledge and understanding.

11. Attorneys' Fees. The parties agree that the non-prevailing party will pay all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party to enforce this Agreement or collect amounts owed under this Agreement.

12. ~~11~~. Consent to Jurisdiction. This Agreement will be governed by and interpreted under New Jersey law. The parties hereby consent and waive all objections to the non-exclusive personal jurisdiction of, and venue in, the United States District Court of New Jersey and the state courts situated in Morris County, New Jersey for the purposes of all cases and controversies involving this Agreement and its enforcement.

13. ~~12~~. Capitalized Terms. Capitalized terms not otherwise defined in this Agreement shall have the meaning assigned to that term in the ~~Prime~~Franchise Agreement, including its addenda and amendments.

14. ~~13~~. Execution in Counterparts. To facilitate execution of this Agreement by geographically separated parties, this Agreement and all other agreements and documents to be executed in connection herewith may be executed in as many counterparts as may be required; and it shall not be necessary that the signatures on behalf of each party appear on each counterpart; but it shall be sufficient that the signature on behalf of each party appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this Agreement to produce or account for more than a number of counterparts containing the respective signatures on behalf of all the parties hereto. All facsimile executions shall be treated as originals for all purposes.

15. ~~14~~. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties respecting the settlement relating to the ~~Unit~~Facility. This Agreement may not be changed or modified, except by a writing signed by the parties hereto.

(Signatures follow on next page) IN WITNESS WHEREOF, the parties have executed this Agreement as of the date indicated above.

(Signatures follow on next page)

**FRANCHISOR:**

<<INSERT NAME OF FRANCHISOR>>

Attest: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

(Assistant) Secretary \_\_\_\_\_ Name:

**FRANCHISEE:**

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Name: Title:

**GUARANTORS:**

Witness: \_\_\_\_\_

\_\_\_\_\_ By: \_\_\_\_\_

\_\_\_\_\_

Witness: \_\_\_\_\_

\_\_\_\_\_ By: \_\_\_\_\_

\_\_\_\_\_

**EXHIBIT C-7**

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## Signature Reservation Services Agreement

**Franchisee:** (“you” or “your”)  
**Brand:**  
**Property Location:** (“Property”)  
**Account Number:**

Wyndham Hotel Group, LLC (“we”, “us” or “our”), through third-party vendors, has developed two services, Digital Search Call Transfer (“DSCT”) and Property Call Transfer (“PCT”), under which callers inquiring about reservations at franchised properties may have their calls handled by our reservation agents (“Agents”) who will book reservations on your behalf (each of DSCT and PCT a “Service” and, collectively, “the Services”).

The Services are described in more detail in Schedule A (DSCT) and Schedule B (PCT) to this Agreement. To participate in PCT you must satisfy, in our sole discretion, certain technology and resource requirements specified in Schedule B. **You acknowledge that, in the event you choose to participate in the PCT Service but fail to satisfy our requirements for that Service, including by failing to transfer a reasonable volume of calls in good faith to our reservation agents during the Term, you shall be enrolled automatically to participate in the DSCT Service.**

Subject to satisfying our requirements, if applicable, indicate which of the Services you wish to participate in by checking the appropriate box below:

- Digital Search Call Transfer (Schedule A)
- Property Call Transfer (Schedule B)

Regardless of whether you participate in DSCT or PCT, or any other additional or replacement Service we may introduce during the Term, you agree to participate in the applicable Service in accordance with the following:

1. **Fees.** Beginning on the “Billing Commencement Date”, we will charge you a “Call Transfer ~~Booking Fee~~” of ~~(i) 3.5% of the Gross Room Revenue (“GRR”) for reservations booked by us with a maximum of \$67.00 per booking for the DSCT Service, and (ii) \$2.95 for each call transferred for the PCT Service, regardless if the call results in a reservation as reflected on Schedule A or Schedule B, as applicable.~~ The Billing Commencement Date for the DSCT Service is the date that our ~~Central Reservation Center Agents~~ books the first room reservation at ~~the your~~ Property ~~under the Service.~~ ~~The Billing Commencement Date for the PCT Service is the date that our Central Reservation Center Agents receives the first call transferred call from your Property.~~ We will invoice you monthly for the Call Transfer ~~Booking~~ Fees which shall be payable when your Royalties are due under your franchise or membership agreement with us. We may, in our discretion, increase the Call Transfer ~~Booking~~ Fee ~~to cover our costs provided such fees are increased for all similarly situated Properties, both the percentage of the GRR and the per booking maximum for the DSCT Service and the per call amount for the PCT Service.~~ We shall notify you no less than thirty (30) days prior to any such increase taking effect.

**2. Term.** This Agreement will begin when we countersign this Agreement after you sign it and will continue until the expiration or termination of your franchise or membership agreement with us or our affiliate. In addition, we shall have the right to terminate this Agreement at any time without cause upon thirty (30) days' written notice.

**3. Change to Services.** We reserve the right to amend, cancel, or replace any of the Services as business circumstances warrant, in our sole discretion, upon 30 (thirty) days' written notice. In the event that we cancel any Service in which you are then currently participating, then we may, at our option, replace the Service with an alternative Service or require you to participate in another Service then currently offered under this Agreement.

**3.4. Dispute Resolution.** Any disputes arising under this Agreement will be resolved in accordance with the dispute resolution procedures under your franchise or membership agreement with us or our affiliate, including but not limited to, the provisions concerning waiver of jury trial, consent to venue and personal jurisdiction, and choice of law.

**4.5. No Warranty.** WE MAKE NO REPRESENTATION OR WARRANTY REGARDING THE VOLUME OF RESERVATIONS OR AMOUNT OF REVENUES THAT THE PROPERTY WILL ATTAIN AS A RESULT OF THE SERVICE OR THAT YOUR RESERVATIONS OR REVENUE WILL INCREASE. WE MAKE NO OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, REGARDING THE SERVICE. YOU, ON BEHALF OF YOURSELF, YOUR SUCCESSORS AND ASSIGNS, HEREBY WAIVE, RELEASE AND RENOUNCE ALL CLAIMS OR CAUSES OF ACTION THAT YOU MAY HAVE AGAINST US, OUR AFFILIATES, OR OUR OR THEIR OFFICERS, DIRECTORS OR AGENTS, ARISING OUT OF THE SERVICES, UNLESS DUE TO OUR WILFULL MISCONDUCT.

**5.6. Limitation on Liability.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR LOST REVENUE (COLLECTIVELY REFERRED TO AS "INDIRECT DAMAGES") ARISING FROM, RELATING TO, OR IN CONNECTION WITH THE SERVICE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN SUCH DAMAGES. IN ADDITION, EACH PARTY'S DIRECT DAMAGES (AND ANY INDIRECT DAMAGES TO THE EXTENT THAT A COURT OF COMPETENT JURISDICTION OR OTHER AUTHORITY DOES NOT RECOGNIZE OR ENFORCE THE ABOVE WAIVER) SHALL BE LIMITED TO THE TOTAL FEES PAID BY YOU TO US DURING THE THEN CURRENT TERM.

**6.7. Force Majeure.** In no event shall either party be liable for any failure or delay in performance (except for the obligation to remit fees) due to causes or circumstances beyond its reasonable control and without its fault or negligence (including, but not limited to, Acts of God, acts of the public enemy, war or terrorism, acts of the United States of America, or any state,

territory or political division of the United States of America, or of the District of Columbia, fires, floods, or other natural disaster, strikes or any other labor disputes, communication line failures, and/or freight embargoes).

**7.8. Miscellaneous.** The parties agree that this Agreement contains the entire agreement between the parties relating to the Services, superseding and terminating any prior representation, warranty or agreement, whether oral or in writing. Nothing in this or any other related agreement, however, is intended to disclaim any representations we made in the Franchise Disclosure Document that we or our affiliate furnished to you. No modification, amendment or waiver of this Agreement will be binding upon either party unless the same has been made in writing and executed by both parties. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties. You may not assign this Agreement without our prior written approval. All facsimile executions shall be treated as originals for all purposes.

**ONLY AN AUTHORIZED REPRESENTATIVE OF THE PROPERTY SHOULD SIGN THIS AGREEMENT. BY SIGNING THIS FORM,** you represent that you agree to the above terms and that you are authorized to bind the Property.

WE/FRANCHISOR:

YOU/PROPERTY:

By: \_\_\_\_\_

By: \_\_\_\_\_

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

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

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

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

Execution Date: \_\_\_\_\_

**Schedule A**  
**Digital Search Call Transfer**

**1. Our Responsibilities.** We will:

(a) Hire and train ~~agents~~Agents at our Central Reservation Center to handle reservation calls on behalf of your Property, including responding to questions about your Property and attempting to book reservations at your Property. The goal is for the transfer to our Central Reservation Center to appear seamless to the customer and that our ~~reservation a~~Agents ~~are~~appear as an extension of your hotel staff.

(b) Through our third-party vendor, provide a new, dedicated telephone number for your Property to appear on search engines and other digital platforms which will connect to an Interactive Voice Response. Callers to this telephone number will be able to select a number for reservation inquiries. All reservation inquiry calls will be directed to our Central Reservation Center. We will own the telephone number and you must cease all use of it when your participation in the Service ends. You may not use the telephone number in any advertising or marketing materials or on any websites without our prior written approval.

**2. Your Responsibilities.** You will be responsible for:

(a) Working with our team to verify that your Property information, including Property description, address, amenities, inventory, and all other content is updated and accurate in our Central Reservation System at all times.

**3. Fees.** The Call Transfer Fee is 3.5% of the Gross Room Revenue (“GRR”) for each reservation booked by us, up to a maximum of \$7.00 (seven dollars) per reservation booked.

-

## Schedule B Property Call Transfer

### 1. Our Responsibilities. We will:

(a) Hire and train ~~agents~~Agents at our Central Reservation Center to handle reservation calls on behalf of your Property, including responding to questions about your Property and attempting to book reservations at your Property. The goal is for the transfer to our Central Reservation Center to appear seamless to the customer and that our ~~reservation a~~Agents ~~are~~appear as an extension of your hotel staff.

(b) Provide you with a dedicated toll-free telephone number for transferring Qualified Calls (as defined below) to the Central Reservation Center. We will own the toll-free number and you must cease all usage of it when your participation in the Service ends. You may not disclose the toll-free number to any person except your staff on a need to know basis and you may not use it in any advertising or marketing materials for the Property.

### 2. Your Responsibilities. You will be responsible for:

(a) Installation, at your cost, of any PBX hardware and software necessary to interface with the Central Reservation Center. You may also install, at your option and cost, an interactive voice response or “auto-attendant” system at the Property.

(b) Providing sufficient technology or people at the Property, in our sole discretion, to pre-qualify callers before transferring them to the Central Reservation Center. You will only transfer calls from guests who express an interest in reservations at your Property. If you utilize an auto attendant system at the Property, you will designate one key function for reservation information for the property, and you will only transfer these self-selected guests to the Central Reservation Center. These kinds of calls are referred to as “Qualified Calls.”

(c) Transferring, in good faith, a reasonable volume of calls to our Central Reservation Center. If we determine, in our reasonable discretion, that you are not forwarding calls to the program in good faith, you shall be enrolled into the DSCT service.

**3. Fees. The Call Transfer Fee is \$2.95 per call transferred to our Central Reservation Center, regardless of whether the call results in a booked reservation.**

**EXHIBIT C-8**

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**HOTEL REVENUE MANAGEMENT AGREEMENT**

This HOTEL REVENUE MANAGEMENT AGREEMENT (“Agreement”) is made as of \_\_\_\_\_, 20\_ (“Commencement Date”) by and between Wyndham Hotel Group, LLC, with offices located at 22 Sylvan Way, Parsippany, New Jersey 07054 (“we”, “our”, or “us”) and \_\_\_\_\_ with principal offices located at \_\_\_\_\_ (“you”) regarding the guest lodging facility located at \_\_\_\_\_ (“Facility”).

**Recitals.** We have developed a supplementary revenue management consulting service as described in Exhibit A, (the “Service”) in addition to the primary services we provide to franchisees or members under their franchise or membership agreements. You are required to participate in revenue management service as may be described in your Franchise or Membership Agreement. By signing below, you acknowledge that you will participate in mandatory or optional Revenue Management Services at the rates set forth and in accordance with the terms of this Agreement.

NOW THEREFORE, in consideration of the terms and conditions contained herein, the receipt and sufficiency of which are hereby acknowledged, you and we agree as follows:

- 1. **Provision of Services.** We will provide the Service in accordance with the Revenue Management Policies and Best Practices (“RM Policies”) set forth in System Standards. You will establish the reference room rate for the Facility upon which all other rates are based (“Rate of the Day”) and retain ultimate control over all revenue management decisions. Subject to the foregoing, by entering into this Agreement, you explicitly (i) agree to abide by the RM Policies , (ii) authorize us to access your room rates, inventory and other Facility information in our Reservation System, your Facility’s property management system, your Facility’s food and beverage system (if applicable), and any extranet you have with an on-line travel agency or similar distribution company, and (iii) authorize us to make adjustments to the Facility’s rates, inventory and restrictions in order to comply with the RM Policies without advance notice to you. We will not, however, change the Rate of the Day without authorization from you. In addition, you may modify or reverse any change we make by notifying us, providing it is consistent with the RM Policies.
- 2. **Facility Representative.** You shall designate at the end of this Agreement a primary Facility representative who shall have the authority to make revenue management decisions for the Facility and a secondary representative who shall exercise such authority in the absence of the primary representative. We may communicate with these representatives by telephone, e-mail or in another manner, and may rely on any communication which we believe, in good faith, is from them. You may change your designation at any time by notifying us in accordance with Section 11(E) below. Upon our request, the Facility representative shall provide, feedback concerning the performance, operation and general acceptability of the Service, as well as recommendations for improvement.
- 3. **Fee.** You shall pay to us the Fees set forth in Exhibit A, which shall be paid within fifteen (15) days of the receipt of each invoice. We may increase the Fees at any time by providing you at least thirty (30)

days prior written notice, provided that you may terminate this Agreement upon fifteen (15) days prior written notice if the increase in Fees over a one year period is a total of more than ten percent (10%) of the Fees in effect at the beginning of the period.

4. **Term.** The “Term” of this Agreement shall begin on the Commencement Date and shall continue for one year whereupon it shall be automatically renewed for successive Terms of one year each until (i) expiration or termination of the Franchise or Membership Agreement when this Agreement will automatically terminate or (ii) either party terminates this Agreement in accordance with Section 5 below.
5. **Termination.** If either party breaches this Agreement (including but not limited to failing to abide by the RM Policies ) and fails to correct such breach within thirty (30) days (ten (10) days in the event of a monetary default) of being notified thereof in writing, the non-breaching party may terminate this Agreement upon written notice to the breaching party. In addition, at any time after the first ninety (90) days of Service, either party may terminate this Agreement without cause by providing at least sixty (60) days written notice of termination to the other party. Conclusion of service will be at the end of the second full calendar month following the month of receipt of any termination notice.
6. **Dispute Resolution.** Any disputes occurring under this Agreement shall be resolved in accordance with the dispute resolution procedures under the Franchise or Membership Agreement, including but not limited to, the provisions concerning waiver of jury trial, consent to venue and personal jurisdiction, and choice of law.
7. **Confidentiality.** Any know-how, algorithms, formulae, data, recommendations, documentation, software, or other materials or information that we furnish to you in connection with the Services shall be deemed “Confidential Information” as defined in the Franchise or Membership Agreement and shall be subject to all prohibitions on disclosure, copying or use of the Confidential Information under the Franchise or Membership Agreement. We shall have all rights under the Franchise or Membership Agreement if you breach these confidentiality obligations.
8. **No Warranty.** WE MAKE NO REPRESENTATION OR WARRANTY REGARDING THE VOLUME OF RESERVATIONS OR AMOUNT OF REVENUES THAT THE FACILITY WILL ATTAIN AS A RESULT OF THE SERVICE OR THAT YOUR RESERVATIONS OR REVENUE WILL INCREASE. WE MAKE NO OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, REGARDING THE SERVICE. YOU, ON BEHALF OF YOURSELF, YOUR SUCCESSORS AND ASSIGNS, HEREBY WAIVE, RELEASE AND RENOUNCE ALL CLAIMS OR CAUSES OF ACTION THAT YOU MAY HAVE AGAINST US, OUR AFFILIATES, OR OUR OR THEIR OFFICERS, DIRECTORS OR AGENTS, ARISING OUT OF THE SERVICES, UNLESS DUE TO OUR WILFULL MISCONDUCT.
9. **Limitation on Liability.** NEITHER PARTY TO THIS AGREEMENT SHALL BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR LOST REVENUE (COLLECTIVELY REFERRED TO AS “INDIRECT DAMAGES”) ARISING FROM, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT (INCLUDING ALL EXHIBITS), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN SUCH DAMAGES. IN ADDITION, EACH PARTY’S DIRECT DAMAGES (AND ANY INDIRECT DAMAGES TO THE EXTENT THAT A COURT OF

**COMPETENT JURISDICTION OR OTHER AUTHORITY DOES NOT RECOGNIZE OR ENFORCE THE WAIVER FROM LIABILITY SET FORTH IN THE FIRST SENTENCE OF THIS SECTION) SHALL BE LIMITED TO THE TOTAL FEES PAID BY YOU TO US DURING THE THEN CURRENT TERM OF THE AGREEMENT. THE ABOVE LIMITATIONS ON LIABILITY APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE. NEITHER PARTY TO THIS AGREEMENT SHALL BE LIABLE TO THE OTHER PARTY FOR THE CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES THAT MAY BE THE RESULT OF ADMINISTRATIVE ERRORS PROVIDED THAT NO MALICE OR NEGLIGENCE WAS INTENDED.**

**10. Force Majeure.** In no event shall either party be liable for any failure or delay in performance (except for the obligation to remit fees) due to causes or circumstances beyond its reasonable control and without its fault or negligence (including, but not limited to, Acts of God, acts of the public enemy, war or terrorism, acts of the United States of America, or any state, territory or political division of the United States of America, or of the District of Columbia, fires, floods, or other natural disaster, strikes or any other labor disputes, communication line failures, and/or freight embargoes). The party claiming such a failure or delay must promptly notify the other party of such failure or delay. In the event that any such failure or delay continues for more than thirty (30) days, then either party upon notice to the other may terminate this Agreement without any further liability to the other party.

## **11. Miscellaneous**

- A. Entire Agreement.** The parties agree that this Agreement contains the entire agreement between the parties relating to the Services, superseding and terminating any prior representation, warranty or agreement, whether oral or in writing. No modification or amendment of this Agreement shall be binding upon either party unless the same has been made in writing and executed by both parties. Notwithstanding the foregoing, no provision in this or any related agreement is intended to disclaim the express representations made in the Franchise Disclosure Document.
- B. No Third Party Beneficiary.** Nothing in this Agreement is intended, nor shall be deemed, to confer any rights or remedies under this Agreement upon any person or legal entity other than you.
- C. Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties. This Agreement may not be assigned by you without our prior written approval.
- D. Counterpart Execution.** This Agreement may be executed in counterparts and each copy so executed shall be deemed an original. Any copy delivered by facsimile transmission or bearing an electronic signature shall be granted the same legal effect as a copy having an original signature.
- E. Notices.** All notices shall be delivered in the manner set forth in the Franchise or Membership Agreement. Such notices shall be deemed given on the date delivered or date of attempted delivery if refused.
- F. Waivers.** If we allow you to deviate from any term of this Agreement, we may insist on strict compliance of any other term or of the same term at a later time. All waivers under this

Agreement must be in writing and signed by our authorized representative to be effective.

**IN WITNESS WHEREOF**, the parties hereto have duly executed, sealed and delivered this Agreement in duplicate on the day and year first above written.

WE:

YOU:

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Your Primary and Secondary Facility Representatives for Making Revenue Management decisions and communicating with us:**

[Please provide name and title of each]

Primary: Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Secondary: Name: \_\_\_\_\_ Title: \_\_\_\_\_

Email address/Phone no. of Primary Representative:

**EXHIBIT A**

**Revenue Management Service (Diamond/Platinum/Gold)**

**I. Description of Services**

Type	Detail	Service Model and Frequency		
		Diamond	Platinum	Gold
Revenue Management Call/Meeting	Scheduled call with Facility to discuss availability and rate strategy for the next 90 days	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> (1x month) EOM Review
Mix of Business Analysis	Includes performance for market segments, rate plans, corporate accounts, channel contribution	<input checked="" type="checkbox"/> (1x month)	<input checked="" type="checkbox"/> (1x month)	<input checked="" type="checkbox"/> (1x month)
Rate Parity Review	Review all channels for rate parity & availability	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Rate & Inventory Changes	Recommend & Maintain price point & availability restrictions for >90 days	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> (discussion only)
Rate Maintenance	Manage rates 15 months into future	<input checked="" type="checkbox"/> (1x quarter)	<input checked="" type="checkbox"/> (1x quarter)	
Rate Loading	Lead the process on rate code loading & date extension (whether working with distribution or MyRequest)	<input checked="" type="checkbox"/> (1x quarter)	<input checked="" type="checkbox"/> (1x quarter)	<input checked="" type="checkbox"/> (1x quarter; discussion only)
RFP Process	Support negotiated pricing/RFP process	<input checked="" type="checkbox"/> (1x year)	<input checked="" type="checkbox"/> (1x year)	<input checked="" type="checkbox"/> (1x year)
End of Month Review	Review end of the month statistics, provide critical analysis of performance & future strategies	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Rate Plan Content	Manage rate plan descriptions	<input checked="" type="checkbox"/> (1x year)	<input checked="" type="checkbox"/> (1x year)	<input checked="" type="checkbox"/> (1x year)
OTA Rates & Inventory	Manage price points and parity on brand supported OTAs	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> (discussion only)
OTA Market Managers	Manage Market Manager relationships	<input checked="" type="checkbox"/> (1x quarter)	<input checked="" type="checkbox"/> (1x quarter)	<input checked="" type="checkbox"/> (1x quarter; discussion only)

Website Content Review	Full content review of Brand.com & OTAs done periodically	<input checked="" type="checkbox"/> (2x year)	<input checked="" type="checkbox"/> (2x year)	<input checked="" type="checkbox"/> (2x year)
Competitive Rate Shops	Rate shops required at additional cost	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	optional
Agency 360	Quarterly report review with property team to identify opportunity accounts. More frequent review (1x month) is optional with property subscription at additional cost.*	<input checked="" type="checkbox"/> (1x quarter*)	<input checked="" type="checkbox"/> (1x quarter*)	
STR Reports	Review STR reports & provide recommendations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> (discussion only)
City Demand	Review city event/convention calendars to maintain awareness of demand generators	<input checked="" type="checkbox"/> (2x year)	<input checked="" type="checkbox"/> (2x year)	<input checked="" type="checkbox"/> (2x year; discussion only)
Groups	Create group displacement analysis as needed, analyze group prospects, provide pricing strategy & guidance, review & update group sales page(s)	<input checked="" type="checkbox"/> (review & update sales page(s) 2x year)	<input checked="" type="checkbox"/> (review & update sales page(s) 2x year)	<input checked="" type="checkbox"/> (1x year; review & update group sales page(s) only)
Group Blocks	Work with Facility to ensure group inventory & cut-off dates are managed according to demand	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
System Audit & Gap Analysis	Audit PM and CR for parity & rate/room type/channel distribution	<input checked="" type="checkbox"/> (1x quarter)	<input checked="" type="checkbox"/> (1x quarter)	<input checked="" type="checkbox"/> (1x year)
System Education	Educate property team on WHR Systems	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Discount & Package Strategy	Update/create packages & strategy for promotions & discounts	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

## II. Rate Strategy and Inventory Management

- Develop a *rate strategy* for the Facility, subject to approval by the Facility executive staff and ownership. A rate strategy is a monthly or quarterly set of pricing-related practices that will help the Facility to meet its stated operational and financial goals (such as RevPar, Occupancy, ADR, or minimization of overbooking-related service/delivery issues).
- Effect execution of the rate strategy on an ongoing basis, specifically advising the Facility staff on Franchisor's actions to:
  - Maintain the pricing structure for the Facility
  - Evaluate demand based on historical and currently-booked data
  - Analyze potential commitments to groups and make recommendations on pricing and allocations
  - Analyze and identify the relevant market segments which apply to the Facility and make pricing and rate policy recommendations for those segments
  - Review competitive pricing and availability
  - Recommend price points and availability restrictions for future dates across all distribution channels
- Produce reports for the Facility Executive Staff on past results and future conditions
- Facilitate weekly or bi-weekly meetings with the Facility staff to review past results and future market conditions
- Test whether the Facility is in compliance with any Franchisor policies related to pricing, including but not limited to rate parity across distribution channels, "disaster pricing", corporate and affiliation discounts, last room availability.
- Communicate recommendations and status of changes to the Facility staff designees

Responsibility for prices and availability

- **In the event of a lack of consensus between the Revenue Management Service Specialist and the Facility staff or designees, the Facility staff always has the right to make the final determination on actions to be taken.**

## III. Rate Shop Report.

As part of subscribing to the Service, you must sign up a rate shop program that we designate, at an additional cost to you (currently \$60 per month). We will determine in our sole discretion the number of hotels, booking sources and arrival dates to include in the shop reports, and the frequency of delivery of reports to you. Reports exceeding the parameters we establish may be available for an additional charge.

#### IV. Facility Site Visits.

A property visit may be something to consider based on the market and competition. Facilities subscribing to Diamond or Platinum Revenue Management Service may request a property visit from the Revenue Management Service Specialist once per year, with the travel and board expenses for the trip being covered by you.

#### V. Modification of Services.

We reserve the right to modify, replace or add new Services to those described in this Exhibit. If we replace or eliminate any Services, we will provide you with reasonable notice of such modification, which will not materially degrade the level of Services you receive from us.

#### VI. Pricing

- Diamond Service:** ~~= 0-60~~ 145 rooms; ~~\$1,200~~ 1,300 per month; ~~61-100~~ 146-199 rooms; ~~\$1,500~~ 1,900 per month; ~~101-199~~ and 200+ rooms; \$2,400 per month; ~~and 200-500 rooms \$2,900 per month.~~
- Platinum Service:** ~~= 0-60~~ rooms; \$595 per month; 61-100 rooms; \$750 per month; 101-145 rooms: \$795 per month; and ~~101-199~~ 146+ rooms; ~~\$1,150~~ 1,195 per month.
- Gold Service** ~~– up to 120 rooms: \$504 per month; 120+ rooms: \$4.20 per room per month; and max. maximum~~ of \$5,000 per month.

**EXHIBIT C-9**

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Facility: \_\_\_\_\_  
File No.: \_\_\_\_\_  
Brand: \_\_\_\_\_

## HOTEL CONNECTIVITY SOLUTIONS AGREEMENT

This Hotel Connectivity Solutions Agreement (“**Agreement**”), effective as of \_\_\_\_\_, 20\_\_\_\_ (the “**Effective Date**”), by and between \_\_\_\_\_ (“**Franchisor**” “**we,**” “**our,**” or “**us**”), and \_\_\_\_\_ (“**Franchisee**” “**you,**” or “**your**”), governs your access to and use of the products and services described herein (“**Products and Services**”). Franchisor and Property shall each be referred to herein as a “**Party**” and, together, as the “**Parties**” to this Agreement.

### RECITALS

\_\_\_\_\_ You have entered, or are about to enter, into an agreement with Single Digits, Inc., or one of its affiliates or subcontractors (collectively “**Single Digits**” or “**Vendor**”), for the purpose of Single Digits providing certain products and services relating to the provision of high speed guest internet access at your hotel (the “**SD Agreement**”). You entering into an SD Agreement, and its on-going validity, is a condition precedent to the effectiveness of this Agreement.

For, and in consideration of, the mutual covenants, representations and promises hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

#### 1. GENERAL

**1.1 Definitions.** Capitalized terms used herein shall have the meanings ascribed to them in this Agreement or in any Schedules attached hereto, which may be updated or supplemented by Franchisor from time to time. All other capitalized terms used but not defined herein shall have the meanings ascribed to them in the License or Franchise Agreement between us and Franchisee (the “**Franchise Agreement**”) and are incorporated herein by reference.

**1.2 Conflicts in Interpretation.** The following order of precedence shall be followed in resolving any inconsistencies between the terms of this Agreement and the terms of any Schedules attached hereto: (a) first, the terms contained in the body of this Agreement; and (b) second, the terms of the Schedules attached to this Agreement, provided that no order of precedence shall be applied among such Schedules.

#### 2. TERM AND TERMINATION

**2.1 Term.** This Agreement shall be effective as of the Effective Date and shall continue in full force and effect until the expiration of the Term (defined below), unless earlier terminated in accordance with the terms and conditions of this Agreement (“**Term**”). The “**Term**” shall commence on the Effective Date of this Agreement and, unless this Agreement is earlier terminated in accordance with this Agreement, shall continue for a period of sixty (60) months thereafter.

**2.2 Termination and Other Remedies.** At our option, we may terminate this Agreement immediately: (a) if you fail to make any payment required pursuant to this Agreement, the SD Agreement, the Franchise Agreement or any other agreement between you and us, and such failure continues uncured for a period of 10 days after we give you written notice; (b) if you breach any other covenant, warranty or agreement under this Agreement, the Franchise Agreement or any other agreement between you

and us and the breach continues uncured for a period of 30 days after we give you written notice; and/or (c) if the license granted under the Franchise Agreement terminates for any reason and is not immediately replaced by an express written agreement between you and us for a license to continue operation of the Facility. In addition to the above, this Agreement shall terminate automatically in the event that either (i) the SD Agreement terminates or expires, or (ii) the license granted to you under the Franchise Agreement expires or terminates for any reason and is not immediately replaced by an express written agreement between you and us for a license to continue the operation of the Facility.

### **3. DESCRIPTION OF PRODUCTS AND SERVICES**

**3.1 Products.** During the term of this Agreement, Single Digits may offer to provide you certain equipment to be used as part of the Products and Services (“**Equipment**”). Any such Equipment that you desire to purchase, lease or otherwise procure from Vendor shall be set forth and detailed in the SD Agreement. We are and shall not be a party to that SD Agreement and shall not be liable in any manner to either you or the Vendor for your or the Vendor’s compliance with, or breaches of, such SD Agreement.

**3.2 Services.** During the term of this Agreement, we or a Vendor may offer to provide to you with certain Services, as further described below.

3.2.1 Services Provided by Us. The Services we will provide you under this Agreement are set forth in the attached Schedule 1.

3.2.2 Services Provided by Vendor. Any Services that are to be provided to you by a Vendor in furtherance of this Agreement shall be set forth and detailed in a separate SD Agreement. We shall not be a party to that SD Agreement and shall not be liable in any manner to either you or the Vendor for your or the Vendor’s compliance with, or breaches of, such SD Agreement.

**4. GRANT OF RIGHTS.** In the event we grant you access or use of any software (including any Software-as-a-Service) (“**Software**”), the following terms shall apply:

**4.1 License.** Subject to payment of all applicable fees, we hereby grants you a limited, non-transferable, non-exclusive license, to access, use and display the Software during the Term solely by your permitted end users and solely in accordance with the terms and conditions set forth in this Agreement.

**4.2 Limitations.** Except as provided in Section 4.1, all rights, title and interests in and to the Software are reserved to us or to any third party who licenses the Software to us or our affiliates.

**4.3 Title.** Title to and ownership of the Software, including all Intellectual Property rights therein, is and shall remain with us, our affiliates or any third party who licenses it to us. You shall at all times protect and defend, at your own cost and expense, our rights, title and interests in and to the Software against all claims, liens and legal processes of your creditors.

**4.4 Restrictions.** You shall not: (a) permit any unauthorized third party to access or use the Software; (b) create or attempt to create any derivate works based on the Software; (c) copy, frame or mirror any part or content of the Software; (d) disassemble, decompile, reverse engineer or otherwise attempt to recreate the Software; or (e) access, use or otherwise manipulate the Software in order to create a competitive product or service or to copy any features, functions or graphics of the Software. We may, at our sole discretion and without prior notice to you, conduct audits of your hardware, computer systems and applications, including audits by electronic and remote means,

to verify conformance with this Agreement.

**4.5 Suggestions.** Any suggestions and feedback relating to the Software, Products or Services or relating to any desired or recommended additional features, enhancements or modifications to the Software, Products or Services that are provided by or through you or your affiliates to us shall be the exclusive property of ours as of the date it is offered to us and you and your affiliates hereby assign all rights and interests in and to such suggestions and feedback to us as of the date it is offered to us.

**4.6 Permitted Uses.** You shall use the Software only for the permitted uses with respect to the business and operations of you as contemplated in this Agreement or the Franchise Agreement. You shall not load, store or otherwise use any software on or with the Software, without our prior written consent, as the use of such software may adversely affect the operation and functionality of the Software and the Products and Services. If you violate this Section, the warranties set forth in this Agreement shall be void, and you shall be solely responsible for the cost of repair or replacement of the Software, if any.

**4.7 Our Responsibilities.** We shall: (a) use commercially reasonable efforts to make the Software available twenty-four (24) hours a day, seven (7) days a week, except for: (i) planned downtime, or (ii) any unavailability caused by circumstances beyond our reasonable control, including without limitation, acts of nature, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, labor strikes, Internet service provider failures or delays, or denial of service attacks; and (b) provide the Software only in accordance with applicable laws and government regulations that govern the implementation of the Software.

**4.8 Your Responsibilities.** In addition to those set forth above, You shall: (a) be fully responsible for its end users' compliance with this Agreement; (b) be responsible for the accuracy, quality and legality of any information, content or data, to the extent collected by you or your employees, agents or representatives, and for the means by which you or your employees, agents or representatives acquires information, content or data; (c) prevent unauthorized access to or use of Software, and notify us promptly of any such unauthorized access or use; and (d) use the Software only in accordance with this Agreement and applicable laws and government regulations. You shall not: (i) make the Software available to anyone other than your authorized end users; (ii) sell, resell, rent or lease the Software; (iii) use the Software to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of the privacy rights of any third party; (iv) use the Software to store or transmit software viruses, malicious code or other harmful files; (v) interfere with or disrupt the integrity or performance of the Software or the data of any third party contained therein; or (vi) attempt to gain unauthorized access to the Software Solution or any related networks.

## **5. FEES AND PAYMENT TERMS**

### **5.1 Fees.**

**5.1.1 Products.** You shall pay all fees for the Products that are specified in the SD Agreement or any other applicable agreement entered into between you and any Vendor.

### **5.1.2 Services.**

**5.1.2.1 Services Provided by Us.** You shall pay all fees for the Services to be provided to you by us under this Agreement that are set forth in the attached Schedule 2.

5.1.2.2 Services Provided by a Vendor. You shall pay all fees for the Services to be provided by a Vendor that are specified in the SD Agreement entered into between you and a Vendor.

## **5.2 Payments.**

5.2.1 Products. You shall pay all fees for the Products that are specified in the SD Agreement entered into between you and a Vendor in accordance with the payment provisions of the SD Agreement or any other applicable agreement between you and a Vendor.

### 5.2.2 Services.

5.2.2.1 Services Provided by US. You shall pay all fees for the Services to be provided to you by us under this Agreement that are set forth in the attached Schedule 2 (the “Fees”). All Fees and amounts due hereunder are due upon receipt of the invoice. We may apply any amounts received to any outstanding invoices in any order. If you do not make all payments of Fees to us when due, then, upon written notice to you, we may withhold implementation, suspend the Services (subject to Section 5.4 below) or terminate this Agreement. We may increase the ongoing Fees on an annual basis by no more than five percent (5%) above the fees paid by you during the immediately preceding twelve- (12-) month period; provided, however, that we shall notify you no less than thirty (30) days prior to any such increase taking effect.

5.2.2.2 Services Provided by Vendor. Property shall pay all fees for the Services to be provided by Vendor that are specified in the SD Agreement entered into between Vendor and Property.

**5.3 Overdue Charges.** If any Fees or charges are not received from you by the due date, then, at our sole discretion, (a) such Fees or charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid, and/or (b) we may condition future subscription renewals on payment terms shorter than those specified in Section 5.1 above (Fees).

**5.4 Suspension of Service and Acceleration.** If any Fees owing by you under this Agreement for the Services are thirty (30) or more days overdue, we may, without limiting our other rights and remedies, accelerate your unpaid fee obligations under this Agreement so that all such obligations become immediately due and payable, and suspend our Services to you until such amounts are paid in full. We shall give you at least seven (7) days’ prior notice that your account is overdue, before suspending the Services to you.

**5.5 Taxes.** Unless otherwise stated, our Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value- added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, “Taxes”). You are responsible for paying all Taxes associated with its purchases hereunder. If we have a legal obligation to pay or collect Taxes for which you are responsible under this section, the appropriate amount shall be invoiced to and paid by you, unless you provide us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, we are solely responsible for taxes assessable based on our income, property and employees.

## **6. TECHNICAL SPECIFICATION REQUIREMENTS**

**6.1 Minimum Technical Requirements.** In order to access and/or use the Products or Services, you may be required to satisfy and/or maintain certain minimum technical requirements consistent with a Vendor’s minimum technical requirements. Any such requirements shall be set forth in the SD Agreement or other agreement between you and a Vendor. If any Vendor (including without limitation, any Vendor made available by us), at your request, attempts to integrate hardware with the Products and Services, we shall not be liable for any injury or damage to either the hardware or the Products and Services unless such injury or damage is due to our gross negligence or willful misconduct. For the avoidance of doubt, the warranties and support described in this Agreement do not apply to any such hardware or Products and Services not provided to you by us.

## **7. THIRD-PARTY SERVICES PROVIDERS**

**7.1 Acquisition of Third Party Solution Services.** Franchisor may from time to time make available to Property offerings designed to interoperate with the Products and Services (“Third Party Services”). Any acquisition by Property of such Third Party Services, and any exchange of data between Property and any Third Party Services provider, is solely between Property and the Third Party Services provider that provides the applicable Third Party Services.

**7.2 No Representation or Warranty.** Franchisor does not warrant or support any Third Party Services. Any Third Party Services shall be governed exclusively by any agreement entered into between Property and the Third Party Services provider that offers the applicable Third Party Services. If the provider of any Third Party Services ceases to make such Third Party Services available for interoperation with the Products and Services on reasonable terms, Franchisor may, in its sole discretion, cease providing access to such Third Party Services without entitling Property to any refund, credit, or other compensation.

## **8. CONFIDENTIALITY AND DATA SECURITY**

**8.1** Franchisor (including its affiliates) and Property may from time to time disclose to each other (both orally and in writing), in connection with the Software, Equipment or Services provided hereunder, certain financial, technical, legal, marketing, network, and/or other business information, reports, records, or data (including, but not limited to, PII, computer programs, code, systems, applications, analyses, passwords, procedures, output, information regarding software, sales data, vendor lists, customer lists, and other customer-related information, business strategies, advertising and promotional plans, creative concepts, specifications, designs, and/or other material) which the disclosing Party deems, and the receiving Party should consider, proprietary and/or confidential (and of independent economic value) to the disclosing Party (collectively, “Confidential Information”). Our Confidential Information also shall include any proprietary and/or confidential information related to our affiliates, employees, franchisees, sales representatives, brokers, and/or customers, as well as any and all content provided by us to Property with respect to any web-related or electronic Services hereunder. Property’s Confidential Information also shall include Property’s (and its subcontractors’) Software and/or pre-existing proprietary materials licensed or provided to, or accessed by, us hereunder. “Personal Information” or “PII” means any information relating to an identified or identifiable person and that, either by itself or in combination with other pieces of information, identifies, or can be used to identify, an individual. Examples of Personal Information include, but are not limited to, names, phone numbers, addresses, credit card information, social security numbers, and/or account or financial information of Franchisor’s or its affiliates’ employees, franchisees, sales associates, brokers, or customers.

- 8.2 The receiving Party agrees to treat all Confidential Information provided by the disclosing Party pursuant to this Agreement and any Schedules issued hereunder as proprietary and confidential to the disclosing Party, and the receiving Party shall not (without the prior written consent of the disclosing Party) disclose or permit disclosure of such Confidential Information to any third Party, provided that the receiving Party may disclose, on a need-to-know basis, such Confidential Information to its third Party subcontractors who have signed non-disclosure agreements with the receiving Party, and/or to its (and, in the case of Franchisor, to Franchisor's affiliates') current employees, officers, or directors, or legal or financial representatives. The receiving Party agrees to safeguard all Confidential Information of the disclosing Party with at least the same degree of care (which in no event shall be less than reasonable care) as the receiving Party uses to protect its own Confidential Information. The receiving Party shall use the disclosing Party's Confidential Information solely for the purpose of fulfilling its obligations under this Agreement. The receiving Party further agrees not to use or disclose the disclosing Party's Confidential Information for its own benefit or for the benefit of others, except as otherwise authorized by this Agreement, the applicable Schedules, and/or the disclosing Party in writing.
- 8.3 Notwithstanding the foregoing, the Parties agree that the following information shall not be deemed Confidential Information, and the receiving Party shall have no obligation with respect to any such information (i) Information which is independently developed by the receiving Party without any breach of this Agreement by the receiving Party, and which can be shown by documentary evidence; (ii) Information which is or becomes in the public domain by no fault or wrongful act of the receiving Party; (iii) Information which is known by the receiving Party prior to disclosure by the disclosing Party; (iv) Information which is disclosed to the receiving Party by third Party who was not under a similar restriction or obligation of confidentiality to the disclosing Party, and without breach of this Agreement; (v) Information which is approved for release by written authorization of the disclosing Party and/or the third Party owner of the disclosed information; or (vi) Information which is disclosed pursuant to the lawful requirement or order of a court or governmental agency, provided that, upon the receiving Party's receipt of a request for such a disclosure, the receiving Party gives prompt notice thereof to the disclosing Party (unless such notice is not legally permissible or required under the circumstances) so that the disclosing Party may have the opportunity to intervene and contest such disclosure and/or seek a protective order or other appropriate remedy.
- 8.4 All Confidential Information transmitted or disclosed hereunder will be and remain the property of the disclosing Party, and the receiving Party shall (at the disclosing Party's election) promptly destroy or return to the disclosing Party any and all copies thereof upon termination or expiration of this Agreement and/or the applicable Schedule, or upon the written request of the disclosing Party. Upon the request of the disclosing Party, any such destruction shall be certified in writing by the receiving Party.
- 8.5 Nothing in this Agreement shall be construed to limit or prohibit the receiving Party from independently creating or developing (or having created or developed for it), or from acquiring from third Parties, any information, products, concepts, systems, or techniques that are similar to or compete with the information products, concepts, systems, or techniques contemplated by or embodied in the disclosing Party's Confidential Information, provided that (in connection with such creation, development, or acquisition) the receiving Party does not violate any of its obligations under this Agreement. Notwithstanding the foregoing, the receiving Party shall not, nor assist others to, disassemble, decompile, reverse engineer, or otherwise attempt to recreate, the disclosing Party's Confidential Information.
- 8.6 The Parties acknowledge and agree that, given the unique and proprietary nature of the Confidential Information, monetary damages may not be calculable or a sufficient remedy for any breach of this

Section 8 by the receiving Party, and that the disclosing Party may suffer great and irreparable injury as a consequence of such breach. Accordingly, each Party agrees that, in the event of such a breach or threatened breach, the disclosing Party shall be entitled to seek equitable relief (including, but not limited to, injunction and specific performance) in order to remedy such breach or threatened breach. Such remedies shall not be deemed to be exclusive remedies for a breach by the receiving Party but shall be in addition to any and all other remedies provided hereunder or available at law or equity to the disclosing Party.

8.7 Notwithstanding the foregoing, to the extent an individual would be considered an employee pursuant to 18 U.S.C. §1833(b)(4), such individuals shall not be held criminally or civilly liable under any U.S. Federal or State trade secret law for the disclosure of Confidential Information if such disclosure is made in confidence to a Federal, State, or local government official, either directly or indirectly, or to that individual's attorney, if such disclosure of Confidential Information is made solely for the purpose of reporting or investigating a suspected violation of law or if the disclosure is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Moreover, an individual who files a lawsuit for retaliation claiming that retaliation against said individual for reporting a suspected violation of law may disclose Confidential Information to his or her attorney and may use Confidential Information in the court proceeding, provided any document containing the Confidential Information is filed under seal and the individual does not disclose the Confidential Information, except pursuant to court order.

8.8 Property shall at all times comply with all applicable privacy laws and Franchisor's and its affiliates' reasonable guidelines for privacy, information protection and data and systems security. In addition, Property shall comply with the Detailed Data Security Specifications document located at <https://suppliers.WHRO.com/privacyandcompliance>.

## 9. NO WARRANTIES

9.1 EXCEPT WHERE SUCH WARRANTIES OR REPRESENTATIONS ARE REQUIRED TO BE GIVEN OR MADE BY APPLICABLE LAW, (A) WE MAKE NO WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY ABOUT THE PRODUCTS OR SERVICES, THEIR MERCHANTABILITY, THEIR FITNESS FOR ANY PARTICULAR PURPOSE, OR THEIR CONFORMANCE TO THE PROVISIONS AND SPECIFICATIONS OF ANY ORDER OR DOCUMENTATION; (B) WE MAKE NO REPRESENTATION OR WARRANTY REGARDING THE VOLUME OF RESERVATIONS OR AMOUNT OF REVENUES THAT YOU MAY ATTAIN THROUGH THE USE OF THE PRODUCTS OR SERVICES OR THAT YOUR RESERVATIONS OR REVENUE WILL INCREASE; AND (C) WE MAKE NO REPRESENTATION OR WARRANTY REGARDING ANY OF THE DATA THAT YOU MAINTAIN OR THE PREVENTION OF ANY VIRUSES OR MALWARE, AND WE ARE NOT RESPONSIBLE FOR THE LOSS OF ANY DATA OR THE INTRODUCTION OF ANY VIRUSES OR MALWARE, EVEN IF SUCH LOSS OR INTRODUCTION RESULTS FROM AND PRODUCTS OR SERVICES HEREUNDER. YOU ARE RESPONSIBLE FOR ENSURING THAT YOUR DATA IS ADEQUATELY BACKED UP AND THAT YOU MAINTAIN CURRENT UPDATED ANTI-VIRUS/ANTI-MALWARE SOFTWARE.

9.2 YOU, ON BEHALF OF YOURSELF, YOUR SUCCESSORS AND ASSIGNS, HEREBY WAIVE, RELEASE AND RENOUNCE ALL CLAIMS OR CAUSES OF ACTION THAT YOU MAY HAVE AGAINST US, OUR AFFILIATES, OR OUR OR THEIR OFFICERS, DIRECTORS OR AGENTS, ARISING OUT OF THE PRODUCTS OR SERVICES UNLESS

DUE TO OUR WILLFUL MISCONDUCT.

**10. INDEMNIFICATION**

10.1 You shall indemnify, defend and hold harmless us, our affiliates, our licensors, successors and assigns and each of the respective directors, officers and employees associated with them against all claims, actions or proceedings, arising out of or related to the Products and Services, including, but not limited to, your failure to comply with this Agreement. We shall not be liable to you or any other person or entity for personal injury or property loss, including but not limited to, damage to the Property, as a result of Property's operation, use or non-use of the Products and Services. You are not obligated to indemnify us for our own gross negligence or intentional misconduct arising out of the operation, use or non-use of the Products and Services.

**11. DAMAGE LIMITATION**

11.1 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO EVENT SHALL WE OR AN AFFILIATE BE LIABLE TO YOU FOR SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR LOST REVENUE (COLLECTIVELY REFERRED TO AS "INDIRECT DAMAGES") IN CONNECTION WITH THE PRODUCTS AND SERVICES OR THIS AGREEMENT, EVEN IF WE HAD BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE REASONABLY FORESEEN SUCH DAMAGES. IN ADDITION, NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, FOR DIRECT DAMAGES CAUSED BY US (AND ANY INDIRECT DAMAGES TO THE EXTENT THAT THE ABOVE LIMITATION IS NOT RECOGNIZED BY A COURT OR OTHER AUTHORITY) ANY CLAIM SHALL BE LIMITED TO THE TOTAL AMOUNT PAYABLE BY YOU TO US FOR THE SERVICES DURING THE FOR THE PREVIOUS TWELVE (12) MONTH PERIOD. THE ABOVE LIMITATIONS ON LIABILITY APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE.

**12. OWNERSHIP OF GUEST INFORMATION.**

12.1 We shall own all Guest Information that is within our possession or any service provider holding such information on our behalf, and you shall own all Guest Information that is within your possession or any service provider holding such information on your behalf. To the extent that we and you both possess identical Guest Information, our and your respective ownership rights with regard to such Guest Information shall be separate and independent from one another. For purposes of this Agreement, the term "Guest Information" shall mean any names, email addresses, phone numbers, mailing addresses and other information about guests and customers of your Property, including without limitation stay information, that either we or you or a person acting on behalf of one or both of us and/or you receives from or on behalf of the other or any guest or customer of your Property or any other third party.

**13. ADDITIONAL PROVISIONS.**

13.1 Costs and Expenses. The non-prevailing party will pay the costs and expenses incurred, including reasonable attorneys' fees and the expenses, by the prevailing party to enforce this Agreement.

13.2 Force Majeure. If performance by you or us is delayed or prevented because of strikes, inability to

procure labor or materials, defaults of suppliers or subcontractors, delays or shortages of transportation, failure of power or telephone transmissions, restrictive governmental laws or regulations, weather conditions, or other reasons beyond the reasonable control of the party, then performance of such acts will be excused and the period for performance will be extended for a period equivalent to the period of such delay. Delays or failures to pay resulting from lack of funds will not be deemed delays beyond your reasonable control.

**13.3 Notices.** Notices will be effective if reduced to writing and delivered, by next day delivery service, with proof of delivery, by facsimile transmission immediately followed by first class mailing of the original material, or mailed by certified or registered mail, return receipt requested, to the appropriate party at its address in this Agreement or to such party at such address as may be designated by notice in accordance with this Section. Notices will be deemed given on the date delivered or date of attempted delivery, if service is refused. As of the Effective Date of this Agreement, the notice address of the Parties is as follows:

**If to Franchisor:**

**If to Property:**

22 Sylvan Way  
Parsippany, NJ 07054  
Attn: Scott Strickland, EVP & CIO

**With a copy to:**

**With a copy to:**

WHR Operations, LLC  
22 Sylvan Way  
Parsippany, NJ 07054  
Attn: Paul F. Cash, EVP &  
General Counsel

**13.4 Your Forms.** We are not bound by any terms of your purchase order forms or notices of acceptance which attempt to impose any conditions at variance with our terms and conditions included in this Agreement or in our invoices, standards manuals, technical specifications or elsewhere. Our failure to object to any provision contained in your printed form is not a waiver of any provision of this Agreement.

**13.5 Oral Modifications.** This Agreement may not be amended, modified or rescinded except in writing, signed by both parties and any attempt to do so shall be void and of no effect.

**13.6 Governing Law/Venue.** This Agreement is to be governed by and construed in accordance with the laws of the State of New Jersey, USA, without regard to the conflicts of law provisions thereof. You consent to the non-exclusive personal jurisdiction of the New Jersey state courts situated in Morris County, New Jersey, USA and the United States District Court for the District of New Jersey, USA. You waive objection to venue in any such courts.

**13.7 Waiver.** If either you or we fail to exercise any right or option at any time under this Agreement, such failure will not be deemed a waiver of the exercise of such right or option at any other time or the waiver of a different right or option. Termination of this Agreement by either you or we will not waive your obligation to make any payments then due to us under this Agreement.

**13.8 Severability.** If any provision of this Agreement is determined to be void or unenforceable, the provision shall be deemed severed from the Agreement and the remainder of this Agreement shall continue in full force and effect.

**13.9 Entire Agreement.** This Agreement (including all Appendices, Exhibits, Schedules and attachments) supersedes all prior oral and written agreements and understandings and, together with the order forms attached to this Agreement, constitutes the entire Agreement between the parties with respect to this subject matter. Nothing in this or any other related agreement, however, is intended to disclaim any representations we made in the Franchise Disclosure Document furnished to you by us.

**13.10 No Third Party Beneficiary.** This Agreement is intended for the sole benefit and protection of the named parties, and no other persons or entities shall have any cause of action or right to payments made or received under this Agreement.

**13.11 Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the parties, their successors and permitted assigns. Notwithstanding the above, you may not assign this Agreement without our express written consent, except as permitted under the Franchise Agreement.

**13.12 Mediation.** The parties agree that all disputes arising under this Agreement may be submitted to non-binding mediation under the National Franchise Mediation Program supervised by the Center for Public Resources (CPR) Institute for Dispute Resolution, 366 Madison Ave., New York, NY 10017; email: info@cpradr.org.

**13.13 Survival.** The provisions of this Agreement that due to their content should have continuing life shall survive the termination of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have executed, or caused to be executed by their duly authorized representatives, this Agreement as of the Effective Date.

WE:

BY: \_\_\_\_\_

Michael Piccola, Executive Vice President

YOU, as Property:

BY: \_\_\_\_\_

By signing this Agreement, you represent that you are authorized to enter into this Agreement on behalf of the Property.

Your address:

Address for Deliveries (if different):

Our address: 22 Sylvan Way, Parsippany, New Jersey 07054, USA

## SCHEDULE 1

### Services to be Provided by Us

- **LEVEL 1 TELEPHONE SUPPORT** We will make all reasonable efforts to provide 24 hour x 7 day Level 1 telephone support Services to you and persons accessing the guest Internet service at your Property. These support Services will be provided for your authorized users, including your employees and guests. These support Services are intended to be used specifically to ensure access to the Public Access Network. Our support desk will address issues pertaining to network activation, hardware and software configuration, and “general” questions pertaining to logging into the Network. These questions typically pertain to PC/Laptop/PDA wireless devices, Operating Systems, Firewalls, NIC/Drivers, IP/Network, and configuration issues.

- **LEVEL 2 TELEPHONE SUPPORT** We will make all reasonable efforts to provide Level 2 telephone support Services to the you (you are required to provide us and, as required, a Vendor sufficient resources with whom to work). The Level 2 technical support Services desk will address issues pertaining to Broadband Access (e.g. third party T1, Cable and DSL providers), network integrity and device responsiveness via remote management tools included in the Broadband Authentication Platform. This Level 2 support will rely on detailed documentation provided by you for accessing network devices. Level 2 support will be responsible for coordinating with your appointed contact for physical inspections and power cycles of suspected faulty on premise equipment. Level 2 support will initiate a warm “hand off” to Internet Service Providers for suspected broadband performance issues. Level 2 support will initiate contact with Level 3 hardware support (quoted separately or a third-party, including a Vendor) in the case of suspected malfunction of network equipment.

- **PROACTIVE NETWORK MONITORING** We will use commercially available best practices via Simple Network Monitoring Protocol (“SNMP”) and/or custom device monitoring tools to pro-actively poll the status of each intelligent device on the guest network.

## SCHEDULE 2

### Fees

We will invoice you monthly at eighty-five cents (\$0.85) per room, as reflected in the Franchise Agreement, for the Services described in Schedule 1.

For all Products, hardware, implementation Services, ISP circuits and ongoing Services that are directly with a Vendor, you will contract separately and directly with such Vendor.

**EXHIBIT D**

We have foreign currency rate exposure to exchange rate fluctuations worldwide, particularly with respect to the Canadian Dollar, the Chinese Yuan, the Euro, the British Pound and the Argentine Peso. We anticipate that such foreign currency exchange rate risk will remain a market risk exposure for the foreseeable future.

We use a current market pricing model to assess the changes in the value of our foreign currency derivatives used by us to hedge underlying exposure that primarily consists of our non-functional-currency current assets and liabilities. The primary assumption used in these models is a hypothetical 10% weakening or strengthening of the U.S. dollar against all our currency exposures as of December 31, 2019. The gains and losses on the hedging instruments are largely offset by the gains and losses on the underlying assets, liabilities or expected cash flows. As of December 31, 2019, the absolute notional amount of our outstanding foreign exchange hedging instruments was \$55 million. We have determined through such analyses, that a hypothetical 10% change in foreign currency exchange rates would have resulted in approximately a \$5 million increase or decrease to the fair value of our outstanding forward foreign currency exchange contracts, which would generally be offset by an opposite effect on the underlying exposure being economically hedged.

Argentina is considered to be a highly inflationary economy. As of December 31, 2019, we had total net assets of \$9 million in Argentina.

Our total market risk is influenced by a wide variety of factors including the volatility present within the markets and the liquidity of the markets. There are certain limitations inherent in the sensitivity analyses presented. While probably the most meaningful analysis, these “shock tests” are constrained by several factors, including the necessity to conduct the analysis based on a single point in time and the inability to include the complex market reactions that normally would arise from the market shifts modeled.

#### **Item 8. Financial Statements and Supplementary Data.**

The financial statements required to be filed pursuant to this Item 8 are appended to this Annual Report on Form 10-K. A list of the financial statements filed herewith is found in Part IV, Item 15 commencing on page F-1 hereof.

#### **Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.**

Not applicable.

#### **Item 9A. Controls and Procedures.**

*Disclosure Controls and Procedures.* Our management, with the participation of our principal executive and principal financial officers, has evaluated the effectiveness of our disclosure controls and procedures (as such term is defined in Rule 13a-15(e) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”)) as of the end of the period covered by this report. Based on such evaluation, our principal executive and principal financial officers have concluded that, as of the end of such period, our disclosure controls and procedures were effective and operating to provide reasonable assurance that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC, and to provide reasonable assurance that such information is accumulated and communicated to our management, including our principal executive and principal financial officers, as appropriate, to allow timely decisions regarding required disclosure.

*Management’s Report on Internal Control Over Financial Reporting.* Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as defined in Rule 13a-15(f) under the Exchange Act. Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2019. In making this assessment, management used the criteria established in *Internal Control - Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations (COSO) of the Treadway Commission. Based on this assessment, our management believes that, as of December 31, 2019, our internal control over financial reporting is effective. Our independent registered public accounting firm has issued an attestation report on the effectiveness of our internal control over financial reporting, which is included within their audit opinion on page F-2.

There have been no changes in our internal control over financial reporting (as such term is defined in Rule 13a-15(f) under the Exchange Act) during the most recent fiscal quarter to which this report relates that have materially affected or are reasonably likely to materially affect our internal control over financial reporting.

**INDEX TO ANNUAL CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS**

	<b>Page</b>
Report of Independent Registered Public Accounting Firm	F-2
Consolidated and Combined Statements of Income	F-5
Consolidated and Combined Comprehensive Income	F-6
Consolidated Balance Sheets	F-7
Consolidated and Combined Statements of Cash Flows	F-8
Consolidated and Combined Statements of Equity	F-9
Notes to Consolidated and Combined Financial Statements	F-10

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of  
Wyndham Hotels & Resorts, Inc.

### Opinions on the Financial Statements and Internal Control over Financial Reporting

We have audited the accompanying consolidated balance sheets of Wyndham Hotels & Resorts, Inc. and subsidiaries (the “Company”), as of December 31, 2019 and 2018, the related consolidated and combined statements of income, comprehensive income, equity, and cash flows, for each of the three years in the period ended December 31, 2019, and the related notes (collectively referred to as the “financial statements”). We also have audited the Company’s internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2019 and 2018, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2019, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by COSO.

### Emphasis of a Matter

As described in Note 1 and Note 17 to the financial statements, the financial statements have been prepared on a stand-alone basis and prior to May 31, 2018 are derived from the consolidated financial statements and accounting records of Wyndham Worldwide Corporation (“Wyndham Worldwide,” now known as Wyndham Destinations, Inc.). Prior to May 31, 2018, the combined financial statements also include expense allocations for certain corporate functions and services historically provided by Wyndham Worldwide. These allocations may not be reflective of the actual expense that would have been incurred had the Company operated as an independent, publicly traded company for the periods presented. Transactions with Wyndham Worldwide are disclosed in Note 17 to the financial statements.

### Basis for Opinions

The Company’s management is responsible for these financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying *Management’s Report on Internal Control over Financial Reporting*. Our responsibility is to express an opinion on these financial statements and an opinion on the Company’s internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the financial statements included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures to respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

## **Definition and Limitations of Internal Control over Financial Reporting**

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

### **Critical Audit Matter**

The critical audit matter communicated below is a matter arising from the current-period audit of the financial statements that was communicated or required to be communicated to the audit committee and that (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

### **Deferred Revenues and Liability - Wyndham Rewards Loyalty Program - Refer to Notes 2 and 3 to the financial statements**

#### *Critical Audit Matter Description*

The Company operates the Wyndham Rewards loyalty program under which members earn points that can be redeemed for free nights or other rewards. Wyndham Rewards members primarily accumulate points by staying in hotels operated under one of the Company's brands or by making purchases with their co-branded credit card. Revenues related to the issuance of loyalty points are recognized net of redemptions over time based upon loyalty point redemption patterns, including an estimate of loyalty points that will expire or will never be redeemed. In addition, the Company records a liability for estimated future redemption costs of outstanding loyalty points.

The Company estimates the value of the deferred revenues and related liability (collectively referred to as the "liability") related to the loyalty program based on an estimated cost per point and an estimated redemption rate of the overall points earned, which is determined with the assistance of a third-party actuarial firm through historical experience, current trends and the use of an actuarial analysis, and includes an estimate of the points that will expire or will never be redeemed. Changes in the estimated redemption rate used in the determination of the liability could result in a material change to the amount of liability reported.

We identified the estimated redemption rate used in the determination of the liability as a critical audit matter because of the significant judgments made by management to estimate the redemption rate. This required a high degree of auditor judgment and an increased extent of effort, including the involvement of our actuarial specialists, when performing audit procedures to evaluate the reasonableness of management's estimates and assumptions related to the selection of the redemption rate.

#### *How the Critical Audit Matter Was Addressed in the Audit*

Our audit procedures related to the estimated redemption rate used in the determination of the liability included the following, among others:

- We tested the effectiveness of the controls related to the liability, including those over the estimate of the redemption rate.
- We evaluated the assumptions used by management to estimate the liability by:
  - Testing the underlying data that served as the inputs for the actuarial analysis of the estimated redemption rate, including earnings and redemptions.

[Table of Contents](#)

- Evaluating whether any approved changes to the Wyndham Rewards loyalty program have been appropriately incorporated in the actuarial analysis of the estimated redemption rate.
- Comparing management's prior-year estimated redemption rate to actual redemptions during the current year to identify potential bias in the determination of the liability.
- With the assistance of our actuarial specialists, we developed a range of independent estimates of the liability, utilizing the same underlying data tested above, and compared our estimates to management's estimates.

/s/ Deloitte & Touche LLP  
New York, New York  
February 13, 2020

We have served as the Company's auditor since 2017.

**WYNDHAM HOTELS & RESORTS, INC.**  
**CONSOLIDATED AND COMBINED STATEMENTS OF INCOME**  
(In millions, except per share amounts)

	Year Ended December 31,		
	2019	2018	2017
<b>Net revenues</b>			
Royalties and franchise fees	\$ 480	\$ 441	\$ 364
Marketing, reservation and loyalty	562	491	371
Hotel management	125	124	108
License and other revenues from former Parent	131	111	75
Cost reimbursements	623	586	264
Other	132	115	98
Net revenues	<u>2,053</u>	<u>1,868</u>	<u>1,280</u>
<b>Expenses</b>			
Marketing, reservation and loyalty	563	486	373
Operating	164	182	183
General and administrative	130	119	88
Cost reimbursements	623	586	264
Depreciation and amortization	109	99	75
Impairment, net	45	—	41
Contract termination	42	—	—
Transaction-related, net	40	36	3
Separation-related	22	77	3
Restructuring	8	—	1
Total expenses	<u>1,746</u>	<u>1,585</u>	<u>1,031</u>
<b>Operating income</b>	307	283	249
Interest expense, net	100	60	6
<b>Income before income taxes</b>	207	223	243
Provision for income taxes	50	61	13
<b>Net income</b>	<u>\$ 157</u>	<u>\$ 162</u>	<u>\$ 230</u>
<b>Earnings per share</b>			
Basic	\$ 1.63	\$ 1.62	\$ 2.31
Diluted	1.62	1.62	2.31

See Notes to Consolidated and Combined Financial Statements.

**WYNDHAM HOTELS & RESORTS, INC.**  
**CONSOLIDATED AND COMBINED STATEMENTS OF COMPREHENSIVE INCOME**  
**(In millions)**

	Year Ended December 31,		
	2019	2018	2017
<b>Net income</b>	\$ 157	\$ 162	\$ 230
<b>Other comprehensive (loss)/income, net of tax</b>			
Foreign currency translation adjustments	3	(9)	5
Unrealized (losses) on cash flow hedges	(22)	(4)	—
<b>Other comprehensive (loss)/income, net of tax</b>	(19)	(13)	5
<b>Comprehensive income</b>	<u>\$ 138</u>	<u>\$ 149</u>	<u>\$ 235</u>

See Notes to Consolidated and Combined Financial Statements.

**WYNDHAM HOTELS & RESORTS, INC.**  
**CONSOLIDATED BALANCE SHEETS**  
(In millions, except per share amounts)

	December 31, 2019	December 31, 2018
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 94	\$ 366
Trade receivables, net	304	293
Prepaid expenses	48	40
Other current assets	53	152
<b>Total current assets</b>	<b>499</b>	<b>851</b>
Property and equipment, net	307	326
Goodwill	1,539	1,547
Trademarks, net	1,395	1,397
Franchise agreements and other intangibles, net	551	590
Other non-current assets	242	265
<b>Total assets</b>	<b>\$ 4,533</b>	<b>\$ 4,976</b>
<b>Liabilities and equity</b>		
Current liabilities:		
Current portion of long-term debt	\$ 21	\$ 21
Accounts payable	30	61
Deferred revenues	132	109
Accrued expenses and other current liabilities	279	502
<b>Total current liabilities</b>	<b>462</b>	<b>693</b>
Long-term debt	2,101	2,120
Deferred income taxes	387	399
Deferred revenues	151	164
Other non-current liabilities	220	182
<b>Total liabilities</b>	<b>3,321</b>	<b>3,558</b>
Commitments and contingencies (Note 13)		
Stockholders' equity:		
Preferred stock, \$.01 par value, authorized 6.0 shares, none issued and outstanding	—	—
Common stock, \$.01 par value, authorized 600.0 shares, 100.6 and 100.4 issued and outstanding at December 31, 2019 and 2018	1	1
Treasury stock, at cost – 6.8 and 2.3 shares at December 31, 2019 and 2018	(363)	(119)
Additional paid-in capital	1,488	1,475
Retained earnings	113	69
Accumulated other comprehensive income	(27)	(8)
<b>Total stockholders' equity</b>	<b>1,212</b>	<b>1,418</b>
<b>Total liabilities and equity</b>	<b>\$ 4,533</b>	<b>\$ 4,976</b>

See Notes to Consolidated and Combined Financial Statements.

**WYNDHAM HOTELS & RESORTS, INC.**  
**CONSOLIDATED AND COMBINED STATEMENTS OF CASH FLOWS**  
(In millions)

	Year Ended December 31,		
	2019	2018	2017
<b>Operating activities</b>			
Net income	\$ 157	\$ 162	\$ 230
Adjustments to reconcile net income to net cash provided by/(used in) operating activities:			
Depreciation and amortization	109	99	75
Impairment, net	45	—	41
Gain on sale	—	(23)	—
Deferred income taxes	(14)	—	(91)
Stock-based compensation	20	25	—
Net change in assets and liabilities:			
Trade receivables	(11)	(55)	(10)
Prepaid expenses	(8)	1	(5)
Other current assets	7	(22)	—
Accounts payable, accrued expenses and other current liabilities	(28)	85	24
Payment of tax liability assumed in La Quinta acquisition	(195)	(35)	—
Deferred revenues	33	(3)	15
Payments of development advance notes	(19)	(27)	(8)
Proceeds from development advance notes	2	14	7
Other, net	2	10	—
<b>Net cash provided by operating activities</b>	<b>100</b>	<b>231</b>	<b>278</b>
<b>Investing activities</b>			
Property and equipment additions	(50)	(73)	(46)
Acquisition of business, net of cash acquired	—	(1,703)	(140)
Proceeds from sale of assets, net	—	27	—
Loan advances	(2)	(7)	(21)
Loan repayments	—	20	—
Insurance proceeds	—	14	11
Other, net	(1)	(6)	(1)
<b>Net cash used in investing activities</b>	<b>(53)</b>	<b>(1,728)</b>	<b>(197)</b>
<b>Financing activities</b>			
Net transfer to former Parent	—	(38)	(59)
Proceeds from borrowings from former Parent	—	13	9
Proceeds from long-term debt	—	2,100	—
Principal payments on long-term debt	(16)	(4)	—
Debt issuance costs	—	(28)	—
Capital contribution from former Parent	68	106	—
Dividend to former Parent	—	(109)	—
Dividends to shareholders	(112)	(77)	—
Repurchases of common stock	(242)	(117)	—
Net share settlement of incentive equity awards	(5)	(34)	—
Other, net	(13)	(4)	(1)
<b>Net cash (used in)/provided by financing activities</b>	<b>(320)</b>	<b>1,808</b>	<b>(51)</b>
Effect of changes in exchange rates on cash, cash equivalents and restricted cash	1	(4)	(1)
Net (decrease)/increase in cash, cash equivalents and restricted cash	(272)	307	29
Cash, cash equivalents and restricted cash, beginning of period	366	59	30
Cash, cash equivalents and restricted cash, end of period	<b>\$ 94</b>	<b>\$ 366</b>	<b>\$ 59</b>

See Notes to Consolidated and Combined Financial Statements.



**WYNDHAM HOTELS & RESORTS, INC.**  
**CONSOLIDATED AND COMBINED STATEMENTS OF EQUITY**  
(In millions)

	Common Shares Outstanding	Common Stock	Treasury Stock	Former Parent's Net Investment	Additional Paid- in Capital	Retained Earnings	Accumulated Other Comprehensive Income/(Loss)	Total Equity
<b>Balance as of December 31, 2016</b>	—	\$ —	\$ —	\$ 1,086	\$ —	\$ —	\$ —	\$ 1,086
Net income	—	—	—	230	—	—	—	230
Net transfers to parent	—	—	—	(59)	—	—	—	(59)
Other comprehensive income	—	—	—	—	—	—	5	5
<b>Balance as of December 31, 2017</b>	—	—	—	1,257	—	—	5	1,262
Net income	—	—	—	43	—	119	—	162
Other comprehensive loss	—	—	—	—	—	—	(13)	(13)
Net transfer to and net contribution from former Parent	—	—	—	222	—	—	—	222
Cumulative effect of change in accounting standard	—	—	—	(15)	—	—	—	(15)
Dividends	—	—	—	(25)	—	(50)	—	(75)
Transfer of net investment to additional paid-in capital	—	—	—	(1,482)	1,482	—	—	—
Issuance of common stock	100	1	—	—	—	—	—	1
Net share settlement of incentive equity awards	—	—	—	—	(34)	—	—	(34)
Repurchase of common stock	(2)	—	(119)	—	—	—	—	(119)
Change in deferred compensation	—	—	—	—	26	—	—	26
Other	—	—	—	—	1	—	—	1
<b>Balance as of December 31, 2018</b>	98	1	(119)	—	1,475	69	(8)	1,418
Net income	—	—	—	—	—	157	—	157
Other comprehensive loss	—	—	—	—	—	—	(19)	(19)
Dividends	—	—	—	—	—	(113)	—	(113)
Repurchase of common stock	(4)	—	(244)	—	—	—	—	(244)
Net share settlement of incentive equity awards	—	—	—	—	(5)	—	—	(5)
Change in deferred compensation	—	—	—	—	20	—	—	20
Other	—	—	—	—	(2)	—	—	(2)
<b>Balance as of December 31, 2019</b>	94	\$ 1	\$ (363)	\$ —	\$ 1,488	\$ 113	\$ (27)	\$ 1,212

See Notes to Consolidated and Combined Financial Statements.

**WYNDHAM HOTELS & RESORTS, INC.**  
**NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS**  
**(Unless otherwise noted, all amounts are in millions, except share and per share amounts)**

**1. BASIS OF PRESENTATION**

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Wyndham Hotels & Resorts, Inc. (collectively with its consolidated subsidiaries, “Wyndham Hotels” or the “Company”) is a leading global hotel franchisor, licensing its renowned hotel brands to hotel owners in approximately 90 countries around the world. Prior to May 31, 2018, the Company was wholly owned by Wyndham Worldwide Corporation (“Wyndham Worldwide”, “Wyndham Destinations” and, collectively with its consolidated subsidiaries, “former Parent”).

In May 2018, the Wyndham Worldwide Board of Directors (“Board”) approved the spin-off of its hotel franchising and management businesses (“Wyndham Hotels & Resorts Businesses”) through a pro-rata distribution of all of the outstanding shares of Wyndham Hotels & Resorts, Inc.’s common stock to Wyndham Worldwide stockholders (the “Distribution”). Pursuant to the Distribution, on May 31, 2018, Wyndham Worldwide stockholders received one share of Wyndham Hotels & Resorts, Inc.’s common stock for each share of Wyndham Worldwide common stock held as of the close of business on May 18, 2018. In conjunction with the Distribution, Wyndham Hotels & Resorts, Inc. underwent an internal reorganization following which it became the holder, directly or through its subsidiaries, of the Wyndham Hotels & Resorts Businesses. Also in conjunction with the Distribution, Wyndham Worldwide Corporation was renamed Wyndham Destinations, Inc.

The Consolidated and Combined Financial Statements have been prepared on a stand-alone basis and prior to May 31, 2018 are derived from the consolidated financial statements and accounting records of Wyndham Worldwide. The Consolidated and Combined Financial Statements include Wyndham Hotels’ assets, liabilities, revenues, expenses and cash flows and all entities in which Wyndham Hotels has a controlling financial interest. The accompanying Consolidated and Combined Financial Statements have been prepared in accordance with accounting principles generally accepted in the United States of America. All intercompany balances and transactions have been eliminated in the Consolidated and Combined Financial Statements.

Wyndham Hotels’ Consolidated and Combined Financial Statements prior to May 31, 2018, include certain indirect general and administrative costs allocated to it by former Parent for certain functions and services including, but not limited to, executive office, finance and other administrative support. These expenses have been allocated to Wyndham Hotels on the basis of direct usage when identifiable, with the remainder allocated primarily based on its pro-rata share of combined revenues or headcount. Both Wyndham Hotels and former Parent considered the basis on which expenses prior to spin-off had been allocated to be a reasonable reflection of the utilization of services provided to or the benefit received by Wyndham Hotels during the periods presented.

In presenting the Consolidated and Combined Financial Statements, management makes estimates and assumptions that affect the amounts reported and related disclosures. Estimates, by their nature, are based on judgment and available information. Accordingly, actual results could differ from those estimates. In management’s opinion, the Consolidated and Combined Financial Statements contain all normal recurring adjustments necessary for a fair presentation of annual results reported.

***Business description***

Wyndham Hotels operates in the following segments:

- **Hotel Franchising** — licenses the Company’s lodging brands and provides related services to third-party hotel owners and others.
- **Hotel Management** — provides hotel management services for full-service and limited-service hotels as well as two hotels that are owned by the Company.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

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### *Principles of consolidation*

When evaluating an entity for consolidation, the Company first determines whether an entity is within the scope of the guidance for consolidation of variable interest entities (“VIEs”) and if it is deemed to be a VIE. If the entity is considered to be a VIE, Wyndham Hotels determines whether it would be considered the entity’s primary beneficiary. The Company consolidates those VIEs for which it has determined that it is the primary beneficiary. Wyndham Hotels will consolidate an entity not deemed a VIE upon a determination that it has a controlling financial interest. For entities where Wyndham Hotels does not have a controlling financial interest, the investments in such entities are classified as available-for-sale securities or accounted for using the equity or cost method, as appropriate.

### *Use of estimates and assumptions*

The preparation of the Consolidated and Combined Financial Statements requires Wyndham Hotels to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses and the disclosure of contingent assets and liabilities in the Consolidated and Combined Financial Statements and accompanying notes. Although these estimates and assumptions are based on Wyndham Hotels’ knowledge of current events and actions Wyndham Hotels may undertake in the future, actual results may ultimately differ from estimates and assumptions.

### *Revenue recognition*

The principal source of revenues from franchising hotels is ongoing royalty fees, which are typically a percentage of gross room revenues of each franchised hotel. For more detailed description of revenue recognition see Note 3 - Revenue Recognition.

### *Loyalty program*

The Company operates the Wyndham Rewards loyalty program. Loyalty members primarily accumulate points by staying in hotels operated under one of the Company’s brands. Wyndham Rewards members may also accumulate points by purchasing everyday services and products with their co-branded credit card.

The Company earns revenue from these programs (i) when a member stays at a participating hotel, club resort or vacation rental from a fee charged by Wyndham Hotels to the franchisee, which is based upon a percentage of room revenues generated from such stay which the Company recognizes, net of redemptions, over time based upon loyalty point redemption patterns, including an estimate of loyalty points that will expire or will never be redeemed, and (ii) based upon a percentage of the member’s spending on the co-branded credit cards for which revenues are paid to Wyndham Hotels by third-party issuing banks which the Company primarily recognizes over time based upon the redemption patterns of the loyalty points earned under the program, including an estimate of loyalty points that will expire or will never be redeemed.

As members earn points through the loyalty program, the Company records a liability for the estimated future redemption costs, which is calculated based on (i) an estimated cost per point and (ii) an estimated redemption rate of the overall points earned, which is determined with the assistance of a third-party actuarial firm through historical experience, current trends and the use of an actuarial analysis. The Company estimates the value of the future redemption obligations by projecting the timing of future point redemptions based on historical levels, including an estimate of the points that will expire or never be redeemed, and an estimate of the points members will eventually redeem. The recorded liability related to the program totals \$90 million and \$89 million as of December 31, 2019 and 2018, respectively, of which \$56 million and \$54 million, respectively, are included in accrued expenses and other current liabilities, and \$34 million and \$35 million, respectively, are included in other non-current liabilities on the Company’s Consolidated Balance Sheets.

### *Cash and cash equivalents*

The Company considers highly-liquid investments purchased with an original maturity of three months or less to be cash equivalents.

### *Valuation of accounts receivable*

The Company provides for estimated bad debts based on its assessment of the ultimate realizability of receivables, considering historical collection experience, the economic environment and specific customer information. When the Company determines that an account is not collectible, the account is written-off to the allowance for doubtful accounts. The following table illustrates the Company's allowance for doubtful accounts activity for the years ended December 31:

	<b>2019</b>	<b>2018</b>	<b>2017</b>
Beginning Balance	\$ 52	\$ 61	\$ 77
Bad debt expense	16	8	7
Write-offs	(21)	(17)	(23)
Ending Balance	<u>\$ 47</u>	<u>\$ 52</u>	<u>\$ 61</u>

### *Advertising expense*

Advertising costs are generally expensed in the period incurred. Advertising expenses, which are primarily recorded within marketing and reservation expenses on the Consolidated and Combined Statements of Income, were \$115 million, \$92 million and \$61 million in 2019, 2018 and 2017, respectively.

### *Property and equipment*

Property and equipment (including leasehold improvements) are recorded at cost, and presented net of accumulated depreciation and amortization. Depreciation, recorded as a component of depreciation and amortization on the Consolidated and Combined Statements of Income, is computed utilizing the straight-line method over the lesser of the lease terms or estimated useful lives of the related assets. Amortization of leasehold improvements, also recorded as a component of depreciation and amortization, is computed utilizing the straight-line method over the lesser of the estimated benefit period of the related assets or the lease terms. Useful lives are generally 30 years for buildings, up to 20 years for building and leasehold improvements and from three to seven years for furniture, fixtures and equipment.

The Company capitalizes the costs of software developed for internal use in accordance with the guidance for accounting for costs of computer software developed or obtained for internal use. Capitalization of software developed for internal use commences during the development phase of the project. Wyndham Hotels amortizes software developed or obtained for internal use on a straight-line basis over its estimated useful life, which is generally three to five years. Such amortization commences when the software is substantially ready for its intended use.

The net carrying value of software developed or obtained for internal use was \$63 million and \$69 million as of December 31, 2019 and 2018, respectively.

### *Impairment of long-lived assets*

Goodwill and other indefinite-lived intangible assets that were recorded in connection with business combinations, are reviewed annually (during the fourth quarter of each year subsequent to completing our annual forecasting process), or more frequently if circumstances indicate that the value of goodwill may be impaired, to the reporting units' carrying values as required by the guidance. This is done either by performing a qualitative assessment or utilizing the two-step process, with an impairment being recognized only where the fair value is less than carrying value. In any given year, the Company can elect to perform a qualitative assessment to determine whether it is more likely than not that the fair value of a reporting unit is in excess of its carrying value. If it is not more likely than not that the fair value is in excess of the carrying value, or the Company elects to bypass the qualitative assessment, the Company would use the two-step process. The qualitative factors evaluated include macroeconomic conditions, industry and market considerations, cost factors, overall financial performance, its historical share price as well as other industry-specific considerations. The Company performed a quantitative assessment for impairment on each reporting unit's goodwill for 2019. Based on the results of the Company's quantitative assessments performed during the fourth quarter of 2019, the Company determined that no impairment existed, nor does the Company believe there is a material risk of it being impaired in the near term at its (i) hotel franchising, (ii) hotel management and (iii) owned hotel reporting units. To the extent estimated market-based valuation multiples and/or discounted cash flows are revised downward, the Company may be required to write-down all or a portion of goodwill, which would adversely impact earnings.

The Company also determines whether the carrying values of other indefinite-lived intangible assets are impaired on an annual basis or more frequently if indicators of potential impairment exist. Application of the other indefinite-lived intangible assets impairment test requires judgment in the assumptions underlying the approach used to determine fair value. The fair

value of each other indefinite-lived intangible asset is estimated using a discounted cash flow methodology. This analysis requires significant judgments, including anticipated market conditions, operating expense trends, estimation of future cash flows, which are dependent on internal forecasts, discount rates and estimation of long-term rates of growth. The estimates used to calculate the fair value of other indefinite-lived intangible asset change from year to year based on operating results and market conditions. Changes in these estimates and assumptions could materially affect the determination of fair value and the other indefinite-lived intangible assets' impairment.

The Company also evaluates the recoverability of its other long-lived assets, including property and equipment and amortizable intangible assets, if circumstances indicate impairment may have occurred, pursuant to guidance for impairment or disposal of long-lived assets. This analysis is performed by comparing the respective carrying values of the assets to the current and expected future cash flows, on an undiscounted basis, to be generated from such assets. Property and equipment are evaluated separately within each segment. If such analysis indicates that the carrying value of these assets is not recoverable, the carrying value of such assets is reduced to fair value.

### *Business combinations*

A component of the Company's growth strategy has been to acquire and integrate businesses that complement its existing operations. The Company accounts for business combinations in accordance with the guidance for business combinations and related literature. Accordingly, the Company allocates the purchase price of acquired companies to the tangible and intangible assets acquired and liabilities assumed based upon their estimated fair values at the date of purchase. The difference between the purchase price and the fair value of the net assets acquired is recorded as goodwill.

In determining the fair values of assets acquired and liabilities assumed in a business combination, the Company uses various recognized valuation methods including present value modeling and referenced market values, where available. Further, the Company makes assumptions within certain valuation techniques including discount rates and timing of future cash flows. Valuations are performed by management or external valuation specialists under management's supervision, where appropriate. The Company believes that the estimated fair values assigned to the assets acquired and liabilities assumed are based on reasonable assumptions that marketplace participants would use. However, such assumptions are inherently uncertain and actual results could differ from those estimates.

### *Income taxes*

Prior to the Company's spin-off, current and deferred income taxes and related tax expense have been determined based on Wyndham Hotels' stand-alone results by applying a separate return methodology, as if the Wyndham Hotels entities were separate taxpayers in the respective jurisdictions. The Company recognizes deferred tax assets and liabilities based on the differences between the financial statement carrying amounts and the tax basis of assets and liabilities using currently enacted tax rates. The Company regularly reviews its deferred tax assets to assess their potential realization and establish a valuation allowance for portions of such assets that the Company believes will not be ultimately realized. In performing this review, the Company makes estimates and assumptions regarding projected future taxable income, the expected timing of the reversals of existing temporary differences and the implementation of tax planning strategies. A change in these assumptions may increase or decrease the Company's valuation allowance resulting in an increase or decrease in its effective tax rate, which could materially impact the Company's results of operations.

For tax positions the Company has taken or expects to take in a tax return, it applies a more likely than not threshold, under which the Company must conclude a tax position is more likely than not to be sustained, assuming that the position will be examined by the appropriate taxing authority that has full knowledge of all relevant information, in order to recognize or continue to recognize the benefit. In determining the Company's provision for income taxes, the Company uses judgment, reflecting its estimates and assumptions, in applying the more likely than not threshold.

In January 2018, the Financial Accounting Standards Board ("FASB") issued guidance on the accounting for tax on the global intangible low-taxed income provisions of the recently enacted tax law. These provisions impose a tax on foreign income in excess of a deemed return on tangible assets of foreign corporations. The guidance indicates that the Company is allowed to make an accounting policy choice of either: (1) treating taxes due on future inclusions in taxable income as a current-period expense when incurred or (2) factoring such amounts into the Company's measurement of its deferred taxes. The Company has elected to account for any inclusions under the period cost method.

### *Stock-based compensation*

In accordance with the guidance for stock-based compensation, Wyndham Hotels measures all employee stock-based compensation awards using a fair value method and records the related expense in its Consolidated and Combined Statements of Income.

Wyndham Hotels recognizes the cost of stock-based compensation awards to employees as they provide services and the expense is recognized ratably over the requisite service period. The requisite service period is the period during which an employee is required to provide services in exchange for an award. Forfeitures are recorded upon the actual employee termination for each outstanding grant.

### *Derivative instruments*

The Company uses derivative instruments as part of its overall strategy to manage its exposure to market risks primarily associated with fluctuations in interest rates and currency exchange rates. As a matter of policy, the Company does not use derivatives for trading or speculative purposes. All derivatives are recorded at fair value as either assets or liabilities. Changes in fair value of derivatives not designated as hedging instruments and of derivatives designated as fair value hedging instruments are recognized currently in operating income and interest expense, net in the Consolidated and Combined Statements of Income, based upon the nature of the hedged item. The effective portion of changes in fair value of derivatives designated as cash flow hedging instruments is recorded as a component of other comprehensive income. The ineffective portion is reported immediately in earnings as a component of operating or interest expense, based upon the nature of the hedged item. Amounts included in other comprehensive income are reclassified into earnings in the same period during which the hedged item affects earnings.

### *Accumulated other comprehensive income/(loss)*

Accumulated other comprehensive income/(loss) (“AOCI”) consists of accumulated foreign currency translation adjustments and unrealized gains or losses on the Company’s cash flow hedges. Foreign currency translation adjustments exclude income taxes related to indefinite investments in foreign subsidiaries. Assets and liabilities of foreign subsidiaries having non-U.S.-dollar functional currencies are translated at exchange rates at the balance sheet dates. Revenues and expenses are translated at average exchange rates during the periods presented. The gains or losses resulting from translating foreign currency financial statements into U.S. dollars, net of hedging gains or losses and taxes, are included in AOCI on the Consolidated Balance Sheets.

### *Former Parent’s net investment*

Parent’s net investment in the Consolidated and Combined Statements of Equity represents Wyndham Worldwide’s historical net investment in Wyndham Hotels resulting from various transactions with and allocations from the former Parent. Balances due to and due from the former Parent and accumulated earnings attributable to Wyndham Hotels operations have been presented as components of former Parent’s net investment.

### *Recently issued accounting pronouncements*

*Measurement of Credit Losses on Financial Instruments.* In June 2016, the FASB issued guidance to replace the existing methodology for estimating credit losses with a methodology that reflects lifetime expected credit losses and requires consideration of a broader range of reasonable and supportable information to inform credit loss estimates. Upon adoption, the Company will be required to use a forward-looking expected credit loss model for accounts receivables, loans and other financial instruments. Credit losses relating to available-for-sale debt securities, of which the Company currently has none, will also be recorded through an allowance for credit losses rather than as a reduction in the amortized cost basis of the securities. This guidance is effective for fiscal years beginning after December 15, 2019 and interim periods within those fiscal years. Adoption of the guidance will be applied using a modified retrospective approach through a cumulative-effect adjustment to retained earnings as of the effective date to align the Company’s current processes for establishing an allowance for credit losses with the new guidance. The Company will adopt the guidance on January 1, 2020, as required, and it currently estimates such adoption will result in a pre-tax cumulative-effect adjustment to retained earnings between \$8 million and \$12 million.

*Simplifying the Test for Goodwill Impairment.* In January 2017, the FASB issued guidance which simplifies the current two-step goodwill impairment test by eliminating Step 2 of the test. The guidance requires a one-step impairment test in which an entity compares the fair value of a reporting unit with its carrying amount and recognizes an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value, if any. This guidance is effective for fiscal years beginning after December 15, 2019 and interim periods within those fiscal years, and should be applied on a prospective basis. Early adoption is permitted for the interim or annual goodwill impairment tests performed on testing dates after January 1, 2017. The Company believes the adoption of this guidance will not have a material effect on its financial statements and related disclosures.

*Customer's Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract.* In August 2018, the FASB issued guidance to address a customer's accounting for implementation costs incurred in a cloud computing arrangement that is a service contract. The guidance aligns the requirements for capitalizing implementation costs incurred in such arrangements with the requirements for capitalizing implementation costs incurred to develop or obtain internal-use software. This guidance is effective for fiscal years beginning after December 15, 2019 and for interim periods within those fiscal years, with early adoption permitted. This guidance should be applied on either a retrospective or prospective basis. The Company believes the prospective adoption of this guidance will not have a material effect on its financial statements and related disclosures.

### **Recently adopted accounting pronouncements**

*Leases.* In February 2016, the FASB issued guidance which requires companies generally to recognize on the balance sheet operating and financing lease liabilities and corresponding right-of-use assets. This guidance is effective for fiscal years beginning after December 15, 2018 and for interim periods within those fiscal years, with early adoption permitted. The Company adopted the guidance using the modified retrospective approach as of January 1, 2019. See Note 18 - Leases for further details.

*Revenue from Contracts with Customers.* In May 2014, the FASB issued guidance on revenue from contracts with customers. The guidance outlines a single comprehensive model for entities to use in accounting for revenue arising from contracts with customers. The guidance also requires disclosures regarding the nature, amount, timing and uncertainty of revenue and cash flows arising from contracts with customers. Entities had the option to apply the new guidance under a retrospective approach to each prior reporting period presented or a modified retrospective approach with the cumulative effect of initially applying the new guidance recognized at the date of initial application within the statement of financial position. The Company adopted the guidance on January 1, 2018 utilizing the full retrospective transition method.

This adoption primarily affected the accounting for initial franchise fees, upfront costs, marketing and reservation expenses and loyalty revenues. Specifically, under the new guidance, initial fees are recognized ratably over the life of the noncancelable period of the franchise agreement, and incremental upfront contract costs are deferred and expensed over the life of the noncancelable period of the franchise agreement. Loyalty revenues are deferred and primarily recognized over the loyalty points' redemption pattern. Additionally, the Company no longer accrues a liability for future marketing and reservation costs when marketing and reservation revenues earned exceed costs incurred. Marketing and reservation costs incurred in excess of revenues earned continue to be expensed as incurred.

*Intra-Entity Transfers of Assets Other Than Inventory.* In October 2016, the FASB issued guidance which requires companies to recognize the income tax consequences of an intra-entity transfer of an asset other than inventory when the transfer occurs. This guidance requires the modified retrospective approach and is effective for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. The Company adopted the guidance on January 1, 2018, as required, which resulted in a cumulative-effect benefit to retained earnings of \$15 million.

*Statement of Cash Flows.* In August 2016, the FASB issued guidance intended to reduce diversity in practice in how certain transactions are classified in the statement of cash flows. This guidance requires the retrospective transition method and is effective for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. The Company adopted the guidance on January 1, 2018, as required. The impact of this new guidance resulted in payments of, and proceeds from, development advance notes being recorded within operating activities on its Consolidated and Combined Statements of Cash Flows. Such amounts were previously reported within investing activities.

### **3. REVENUE RECOGNITION**

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The principal source of revenues from franchising hotels is ongoing royalty fees, which are typically a percentage of gross room revenues of each franchised hotel. The Company recognizes royalty fee revenues as and when the underlying

sales occur. The Company also receives non-refundable initial franchise fees, which are recognized as revenues over the initial non-cancellable period of the franchise agreement, commencing when all material services or conditions have been substantially performed. This occurs when a hotel opens for business in our system or when a franchise agreement is terminated after it has been determined that the hotel will not open.

The Company's franchise agreements also require the payment of marketing and reservation fees, which are intended to reimburse the Company for expenses associated with operating an international, centralized reservation system, e-commerce channels such as the Company's brand.com websites, as well as access to third-party distribution channels, such as online travel agents, advertising and marketing programs, global sales efforts, operations support, training and other related services. Marketing and reservation fees are recognized as revenue when the underlying sales occur. Although the Company is generally contractually obligated to spend the marketing and reservation fees it collects from franchisees, in accordance with the franchise agreements, marketing and reservations costs are expensed as incurred.

The Company earns revenues from its Wyndham Rewards loyalty program when a member stays at a participating hotel, club resort or vacation rental. These revenues are derived from a fee the Company charges a franchised or managed hotel based upon a percentage of room revenues generated from a Wyndham Rewards member's stay. These fees are to reimburse the Company for expenses associated with member redemptions and activities that are related to the administering and marketing of the program. Revenues related to the loyalty program represent variable consideration and are recognized net of redemptions over time based upon loyalty point redemption patterns, which include an estimate of loyalty points that will expire or will never be redeemed.

The Company earns revenue from its Wyndham Rewards co-branded credit card program, which is primarily generated by cardholder spending and the enrollment of new cardholders. The advance payments received under the program are recognized as a contract liability. The program primarily contains two performance obligations: (i) brand performance services, for which revenue is recognized over the contract term on a straight-line basis, and (ii) issuance and redemption of loyalty points, for which revenue is recognized over time based upon the redemption patterns of the loyalty points earned under the program, including an estimate of loyalty points that will expire or will never be redeemed.

The Company provides management services for hotels under management contracts, which offer hotel owners all the benefits of a global brand and a full range of management, marketing and reservation services. In addition to the standard franchise services described above, the Company's hotel management business provides hotel owners with professional oversight and comprehensive operations support services. The Company's standard management agreement typically has a term of 10 to 20 years. The Company's management fees are comprised of base fees, which are typically a specified percentage of gross revenues from hotel operations, and, in some cases, incentive fees, which are typically a specified percentage of a hotel's gross operating profit. The base fees are recognized when the underlying sales occur and the management services are performed. Incentive fees are recognized when determinable, which is when the Company has met hotel operating performance metrics and the Company has determined that a significant reversal of revenues recognized will not occur.

The Company also recognizes reimbursable payroll costs for operational employees and other reimbursable costs at certain of the Company's managed hotels as revenue. Although these costs are funded by hotel owners, accounting guidance requires the Company to report these fees on a gross basis as both revenues and expenses. Additionally, the Company recognizes occupancy taxes on a net basis.

The Company recognizes license and other revenues from Wyndham Destinations for use of the "Wyndham" trademark and certain other trademarks.

In addition, the Company earns revenues from its two owned hotels, which consist primarily of (i) gross room rentals, (ii) food and beverage services and (iii) on-site spa, casino, golf and shop revenues. These revenues are recognized upon the completion of services.

**Deferred revenues**

Deferred revenues, or contract liabilities, generally represents payments or consideration received in advance for goods or services that the Company has not yet provided to the customer. Deferred revenues as of December 31, 2019 and December 31, 2018 are as follows:

	<b>December 31, 2019</b>	<b>December 31, 2018</b>
Deferred initial franchise fee revenues	\$ 136	\$ 127
Deferred loyalty program revenues	86	74
Deferred co-branded credit card program revenues	34	30
Deferred hotel management fee revenues	—	21
Deferred other revenues	27	21
<b>Total</b>	<b>\$ 283</b>	<b>\$ 273</b>

Deferred initial franchise fees represent payments received in advance from prospective franchisees upon the signing of a franchise agreement and are generally recognized to revenue within 12 years. Deferred loyalty revenues represent the portion of loyalty program fees charged to franchisees, net of redemption costs, that have been deferred and will be recognized over time based upon loyalty point redemption patterns. Deferred co-branded credit card program revenue represents payments received in advance from the Company's co-branded credit card partners, primarily for card member activity, which is typically recognized within one year.

**Practical expedients**

The Company has not adjusted the consideration for the effects of a significant financing component if it expects, at contract inception, that the period between when the Company satisfied the performance obligation and when the customer paid for that good or service was one year or less.

For contracts with customers that were modified before the beginning of the earliest reporting period presented, the Company did not retrospectively restate the revenue associated with the contract for those modifications. Instead, it reflected the aggregate effect of all prior modifications in determining (i) the performance obligations and transaction prices and (ii) the allocation of such transaction prices to the performance obligations.

**Performance obligations**

A performance obligation is a promise in a contract to transfer a distinct good or service to a customer. The consideration received from a customer is allocated to each distinct performance obligation and recognized as revenue when, or as, each performance obligation is satisfied. The following table summarizes the Company's remaining performance obligations for the twelve-month periods set forth below:

	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>Thereafter</b>	<b>Total</b>
Initial franchise fee revenue	\$ 29	\$ 15	\$ 14	\$ 78	\$ 136
Loyalty program revenue	53	21	9	3	86
Co-branded credit card program revenue	34	—	—	—	34
Other revenue	16	3	2	6	27
<b>Total</b>	<b>\$ 132</b>	<b>\$ 39</b>	<b>\$ 25</b>	<b>\$ 87</b>	<b>\$ 283</b>

**Disaggregation of net revenues**

The table below presents a disaggregation of the Company's net revenues from contracts with customers by major services and products for each of the Company's segments:

	Year Ended December 31,		
	2019	2018	2017
<b>Hotel Franchising</b>			
Royalties and franchise fees	\$ 465	\$ 432	\$ 355
Marketing, reservation and loyalty	559	489	369
License and other revenues from former Parent	131	111	75
Other	124	103	98
<b>Total Hotel Franchising</b>	<b>1,279</b>	<b>1,135</b>	<b>897</b>
<b>Hotel Management</b>			
Royalties and franchise fees	15	9	9
Marketing, reservation and loyalty	3	2	2
Hotel management - owned properties	89	75	78
Hotel management - managed properties	36	49	30
Cost reimbursements	623	586	264
Other	2	5	—
<b>Total Hotel Management</b>	<b>768</b>	<b>726</b>	<b>383</b>
<b>Corporate and Other</b>	<b>6</b>	<b>7</b>	<b>—</b>
<b>Net revenues</b>	<b>\$ 2,053</b>	<b>\$ 1,868</b>	<b>\$ 1,280</b>

**Capitalized contract costs**

The Company incurs certain direct and incremental sales commissions costs in order to obtain hotel franchise and management contracts. Such costs are capitalized and subsequently amortized beginning upon hotel opening over the first non-cancellable period of the agreement. In the event an agreement is terminated prior to the end of the first non-cancellable period, any unamortized cost is immediately expensed. In addition, the Company also capitalizes costs associated with the sale and installation of property management systems to the Company's franchisees, which are amortized over the remaining non-cancellable period of the franchise agreement. As of December 31, 2019 and December 31, 2018, capitalized contract costs were \$33 million and \$24 million, respectively, of which \$8 million in both years, were included in other current assets, and \$25 million and \$16 million, respectively, were included in other non-current assets on the Company's Consolidated Balance Sheets.

**4. EARNINGS PER SHARE**

The computation of basic and diluted earnings per share ("EPS") is based on net income divided by the basic weighted average number of common shares and diluted weighted average number of common shares, respectively. On June 1, 2018, the Company's separation from Wyndham Worldwide was effected through a tax-free distribution to Wyndham Worldwide's stockholders of one share of the Company's common stock for every one share of Wyndham Worldwide common stock held as of the close of business on May 18, 2018. As a result, on June 1, 2018, the Company had 99.8 million shares of common stock outstanding (inclusive of deferred shares and shares that vested upon separation). This share amount is being utilized for the calculation of basic and diluted earnings per share for all periods presented prior to the date of separation.

[Table of Contents](#)

The following table sets forth the computation of basic and diluted EPS (in millions, except per-share data) for the years ended December 31:

	<b>2019</b>	<b>2018</b>	<b>2017</b>
Net income	\$ 157	\$ 162	\$ 230
Basic weighted average shares outstanding	96.5	99.5	99.8
Stock options and restricted stock units (“RSUs”)	0.1	0.3	—
Diluted weighted average shares outstanding	96.6	99.8	99.8
<i>Earnings per share:</i>			
Basic	\$ 1.63	\$ 1.62	\$ 2.31
Diluted	1.62	1.62	2.31
<i>Dividends:</i>			
Cash dividends declared per share	\$ 1.16	\$ 0.75	\$ —
Aggregate dividends paid to shareholders	\$ 112	\$ 77	\$ —

**Stock repurchase program**

The following table summarizes stock repurchase activity under this stock repurchase program (in millions, except per share data):

	<b>Shares</b>	<b>Cost</b>	<b>Average Price Per Share</b>
As of January 1, 2019	2.3	\$ 119	\$ 52.51
For the twelve months ended December 31, 2019	4.5	244	54.25
As of December 31, 2019	6.8	\$ 363	\$ 53.67

The Company had \$237 million of remaining availability under its program as of December 31, 2019.

## 5. ACQUISITIONS

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Assets acquired and liabilities assumed in business combinations were recorded on the Consolidated Balance Sheets as of the respective acquisition dates based upon their estimated fair values at such dates. The results of operations of businesses acquired by the Company have been included in the Consolidated and Combined Statements of Income since their respective dates of acquisition. The excess of the purchase price over the estimated fair values of the underlying assets acquired and liabilities assumed was allocated to goodwill. In certain circumstances, the allocations of the excess purchase price are based upon preliminary estimates and assumptions. Accordingly, the allocations may be subject to revision when the Company receives final information, including appraisals and other analyses. Any revisions to the fair values during the allocation period will be recorded by the Company as further adjustments to the purchase price allocations. Although, in certain circumstances, the Company has substantially integrated the operations of its acquired businesses, additional future costs relating to such integration may occur. These costs may result from integrating operating systems, relocating employees, closing facilities, reducing duplicative efforts and exiting and consolidating other activities. These costs will be recorded on the Consolidated and Combined Statements of Income as expenses.

The Company did not complete any business combinations in 2019.

### *The La Quinta acquisition*

On May 30, 2018, the Company completed its acquisition of La Quinta Holdings Inc.'s hotel franchising and hotel management business ("La Quinta") for \$1.95 billion in cash, which includes \$8 million of purchase price that the Company withheld to pay La Quinta employee-related equity award liabilities and \$240 million of purchase price that the Company withheld to pay La Quinta tax liabilities, as discussed below. The addition of La Quinta's over 900 franchised hotels and nearly 89,000 rooms increased Wyndham Hotels' midscale presence and expanded its reach further into the upper-midscale segment of the lodging industry. In addition, this transaction expanded the Company's number of managed hotel properties from 116 to 440 at the time of acquisition. This acquisition strengthened the Company's position in the midscale and upper-midscale segments of the hotel industry, which has been and continues to be one of the Company's strategic priorities.

In conjunction with the acquisition, stockholders of La Quinta Holdings received \$16.80 per share in cash (approximately \$1.0 billion in aggregate), and Wyndham Hotels repaid approximately \$715 million of La Quinta Holdings' debt and withheld cash of \$240 million for estimated taxes assumed and expected to be incurred in connection with the taxable spin-off of La Quinta Holdings' owned real estate assets into CorePoint Lodging, Inc. ("CorePoint"), which occurred immediately prior to the acquisition of La Quinta. Wyndham Hotels financed the \$1.95 billion acquisition with proceeds from its \$500 million offering of 5.375% senior notes due 2026 completed in April 2018 and a \$1.6 billion term loan due 2025 that closed in connection with the acquisition.

The allocation of the purchase price is summarized as follows:

	<b>Amount</b>
<b>Total consideration</b> <sup>(a)</sup>	\$ 1,951
Cash withheld to repay La Quinta Holdings Inc.'s estimated tax liability <sup>(b)</sup>	(240)
Cash withheld to pay employee-related equity award liabilities	(8)
Net cash consideration	1,703
Cash escrowed from CorePoint <sup>(c)</sup>	\$ 985
Payment of La Quinta Holdings Inc.'s long-term debt <sup>(c)</sup>	(985)
	—
Cash utilized to repay La Quinta Holdings Inc.'s long-term debt <sup>(d)</sup>	(715)
<b>Net cash consideration (to shareholders of La Quinta Holdings Inc.)</b>	<b>\$ 988</b>
Total current assets <sup>(e)</sup>	\$ 67
Property and equipment	17
Trademarks <sup>(f)</sup>	710
Franchise agreements <sup>(f)</sup>	260
Management contracts <sup>(f)</sup>	119
Other assets	5
Total assets acquired	\$ 1,178
Total current liabilities <sup>(e)</sup>	\$ 89
Deferred income taxes <sup>(g)</sup>	254
Long-term debt repaid at acquisition <sup>(c)</sup>	715
Assumed tax liability <sup>(b)</sup>	240
Other liabilities	11
Total liabilities assumed	1,309
Net identifiable liabilities acquired	(131)
Goodwill <sup>(h)</sup>	1,119
<b>Total consideration transferred</b>	<b>\$ 988</b>

(a) Includes additional consideration of \$1 million related to a net debt adjustment paid to CorePoint during the third quarter of 2018.

(b) Reflects a portion of the purchase price in which \$195 million and \$35 million was paid in 2019 and 2018, respectively, related to the tax liability assumed in the La Quinta acquisition. Additionally, \$10 million was paid directly to CorePoint in 2019 which was reported in other, net within financing activities in the Consolidated and Combined Statements of Cash Flows.

(c) As a result of a change in control provision within La Quinta's long-term indebtedness, CorePoint deposited \$985 million into an escrow account which was utilized to repay a portion of La Quinta Holdings Inc.'s existing indebtedness.

(d) Reflects the portion of La Quinta Holdings Inc.'s long-term debt that was required to be paid by the Company upon a change in control.

(e) The fair values of total current assets and total current liabilities are estimated to approximate their current carrying values.

(f) The identifiable intangible assets consist of trademarks with an indefinite life, franchise agreements which have a weighted average life of 25 years and management agreements which have a weighted average life of 15 years. The fair valuation was performed with the assistance of a third-party valuation firm, which included the consideration of various valuation techniques that the Company deems appropriate for the measurement of fair value of the assets acquired and liabilities assumed.

The valuations of the franchise agreements and management agreements are based on a discounted cash flow method utilizing forecasted cash flows from La Quinta's existing franchise agreements and CorePoint franchise agreements and management agreements (the "CorePoint agreements") that are estimated to be generated over the estimated terms of such contracts. The expected cash flows projections were based on the terms of the agreements, and adjusted for inflation and the costs and expenses required to generate the revenues under such agreements.

The significant assumptions that were utilized for La Quinta's franchise agreements were: (i) forecasted gross room revenues, (ii) a franchise fee of 4.5%, tax affected, and (iii) a discount rate of 9.5%.

The significant assumptions that were utilized for the CorePoint agreements were: (i) forecasted gross room revenues, (ii) franchise and management fee rates of 5.0% each, which were tax affected, and (iii) a discount rate of 9.5% and 10.5% for CorePoint franchise and management agreements, respectively.

(g) The deferred tax liability primarily results from the fair value adjustments for the identifiable intangible assets. This estimate of deferred tax liabilities was determined based on the book and tax basis differences attributable to the identifiable intangible assets acquired at a combined federal and state effective tax rate.

(h) The goodwill recognized in the La Quinta acquisition is not expected to be deductible for income tax purposes.

La Quinta's incremental contributions to net revenues and operating income for the three months ended December 31, 2018 were \$198 million and \$29 million, respectively. Pro forma net revenues and operating income would have been \$2,221 million and \$294 million, respectively, during the year ended December 31, 2018, if La Quinta's historical results had been included in the Company's Consolidated and Combined Statements of Income since January 1, 2018. For 2017, pro forma net revenues and net income would have been \$2,041 million and \$263 million, respectively. This acquisition was assigned to the Company's Hotel Franchising and Hotel Management segments.

#### *The AmericInn acquisition*

During October 2017, the Company completed the acquisition of the AmericInn hotel brand and franchise system for a total purchase price of \$140 million, net of cash acquired, which included a simultaneous sale of 10 owned hotels to an unrelated third party for \$28 million. AmericInn's portfolio consisted of 200 franchised hotels predominantly in the Midwestern United States. This acquisition is consistent with the Company's strategy to expand its brand portfolio and total system size.

The following table summarizes the fair value of the assets acquired and liabilities assumed in connection with Wyndham Hotels' acquisition of AmericInn:

	<b>Amount</b>
Trade receivables	\$ 3
Goodwill <sup>(a)</sup>	44
Franchise agreements <sup>(b)</sup>	46
Trademarks	51
<b>Total assets acquired</b>	<b>144</b>
Other current liabilities	4
<b>Total liabilities acquired</b>	<b>4</b>
<b>Net assets acquired</b>	<b>\$ 140</b>

(a) Goodwill is expected to be deductible for tax purposes.

(b) Franchise agreements have a weighted average life of 25 years.

This acquisition was assigned to the Company's Hotel Franchising segment and was not material to Wyndham Hotels' results of operations, financial position or cash flows. In connection with the acquisition of AmericInn, Wyndham Hotels incurred \$2 million of acquisition-related costs, which are reported within transaction-related costs on the Consolidated and Combined Statements of Income.

## 6. INTANGIBLE ASSETS

Intangible assets as of December 31, 2019 and December 31, 2018 consisted of the following:

	December 31, 2019			December 31, 2018		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
<i>Unamortized intangible assets:</i>						
Goodwill	\$ 1,539			\$ 1,547		
Trademarks <sup>(a)</sup>	\$ 1,393			\$ 1,393		
<i>Amortized intangible assets:</i>						
Franchise agreements <sup>(b)</sup>	\$ 895	\$ 460	\$ 435	\$ 895	\$ 434	\$ 461
Management agreements <sup>(c)</sup>	137	23	114	140	13	127
Trademarks <sup>(d)</sup>	3	1	2	5	1	4
Other <sup>(e)</sup>	3	1	2	6	4	2
	\$ 1,038	\$ 485	\$ 553	\$ 1,046	\$ 452	\$ 594

(a) Comprised of various trademarks that the Company has acquired. These trademarks are expected to generate future cash flows for an indefinite period of time.

(b) Amortized over a period ranging from 20 to 40 years with a weighted average life of 32 years.

(c) Amortized over a period ranging from 7 to 20 with a weighted average life of 14 years.

(d) Amortized over a period of 20 years.

(e) Amortized over a period ranging from 1 to 8 years with a weighted average life of 5 years.

The changes in the carrying amount of goodwill are as follows:

	Balance as of January 1, 2018	Goodwill Acquired During 2018	2018 Adjustments to Goodwill <sup>(a)</sup>	Balance as of December 31, 2018	2019 Adjustments to Goodwill <sup>(b)</sup>	Balance as of December 31, 2019
Hotel Franchising	\$ 385	\$ 1,067	\$ (3)	\$ 1,449	\$ (8)	\$ 1,441
Hotel Management	38	60	—	98	—	98
Total	\$ 423	\$ 1,127	\$ (3)	\$ 1,547	\$ (8)	\$ 1,539

(a) Includes \$2 million related to the sale of Knights Inn brand in May 2018.

(b) Includes \$8 million related to purchase price adjustments for the La Quinta acquisition in 2018.

Amortization expense relating to amortizable intangible assets was as follows for the years ended December 31:

	2019	2018	2017
Franchise agreements	\$ 27	\$ 22	\$ 16
Management agreements	10	7	3
Trademarks	—	1	1
Other	1	1	—
Total <sup>(a)</sup>	\$ 38	\$ 31	\$ 20

(a) Included as a component of depreciation and amortization on the Consolidated and Combined Statements of Income.

Based on Wyndham Hotels' amortizable intangible assets as of December 31, 2019, the Company expects related amortization expense as follows:

	Amount
2020	\$ 37
2021	37
2022	35
2023	35
2024	34



## 7. FRANCHISING, MARKETING AND RESERVATION ACTIVITIES

Royalties and franchise fee revenues on the Consolidated and Combined Statements of Income include initial franchise fees of \$18 million, \$20 million and \$14 million in 2019, 2018 and 2017, respectively.

In accordance with its franchise agreements, generally Wyndham Hotels is contractually obligated to expend the marketing and reservation fees it collects from franchisees for the operation of an international, centralized, brand-specific reservation system and for marketing purposes such as advertising, promotional and co-marketing programs, and training for the respective franchisees. Additionally, the Company is required to provide certain services to its franchisees, including technology and purchasing programs.

### Development advance notes

The Company may, at its discretion, provide development advance notes to certain franchisees or hotel owners in order to assist them in converting to one of Wyndham Hotels' brands, in building a new hotel to be flagged under one of Wyndham Hotels' brands or in assisting in other franchisee expansion efforts. Provided the franchisee/hotel owner is in compliance with the terms of the franchise/management agreement, all or a portion of the development advance notes may be forgiven by Wyndham Hotels over the period of the franchise/management agreement, which typically ranges from 10 to 20 years. Otherwise, the related principal is due and payable to Wyndham Hotels. In certain instances, Wyndham Hotels may earn interest on unpaid franchisee development advance notes.

The Company recorded the following related to development advance notes on the Consolidated and Combined Financial Statements:

#### Consolidated Balance Sheets:

	As of December 31,	
	2019	2018
Development advance notes <sup>(a)</sup>	\$ 84	\$ 78

(a) Included within other non-current assets.

#### Consolidated and Combined Statements of Income:

	Year Ended December 31,		
	2019	2018	2017
Forgiveness of notes <sup>(a)</sup>	\$ 8	\$ 7	\$ 6
Bad debt expense related to notes	2	1	—
Interest earned on unpaid notes	1	1	—

(a) Amounts are recorded as a reduction of royalties and franchise fees and marketing, reservation and loyalty revenues.

## 8. INCOME TAXES

In December 2017, the United States enacted the Tax Cuts and Jobs Act ("U.S. tax reform") and significantly changed U.S. corporate income tax laws by reducing the U.S. corporate income tax rate from 35% to 21% starting in 2018, and imposing a one-time mandatory deemed repatriation tax on undistributed historical earnings of foreign subsidiaries. Other provisions of the law were not effective until January 1, 2018 and include, but are not limited to, creating a territorial tax system which generally eliminates U.S. federal income taxes on dividends from foreign subsidiaries, eliminating or limiting the deduction of certain expenses, and imposing a minimum tax on earnings generated by foreign subsidiaries.

As of December 31, 2017, the Company had made a reasonable estimate for (i) the remeasurement of its net deferred income tax and uncertain tax liabilities based on the new reduced U.S. corporate income tax rate and (ii) the one-time deemed repatriation tax on the Company's undistributed historical earnings of foreign subsidiaries. With respect to certain other items, the Company had not yet been able to make a reasonable estimate and continued to account for those items based on its existing accounting under GAAP and the provisions of the tax laws that were in effect prior to enactment of the U.S. tax reform. One such case was the Company's intent regarding whether to continue to assert indefinite reinvestment on a part or all the undistributed foreign earnings. During the fourth quarter of 2018, the Company completed its accounting for the tax effects of the U.S. tax reform recorded for 2017. The following table presents the impact of the accounting for the enactment of U.S. tax reform on the Company's provision for (benefit from) income taxes:

	Year Ended December 31,	
	2018	2017
Remeasurement of net deferred income tax and uncertain tax liabilities	\$ (2)	\$ (87)
One-time deemed repatriation tax on undistributed historical earnings of foreign subsidiaries	(2)	2
<b>Total provision for (benefit from) income taxes impact</b>	<b>\$ (4)</b>	<b>\$ (85)</b>

Although the one-time mandatory deemed repatriation tax during 2017 and the territorial tax system created as a result of U.S. tax reform generally eliminate U.S. federal income taxes on dividends from foreign subsidiaries, the Company continues to assert that all of the undistributed foreign earnings of \$55 million will be reinvested indefinitely as of December 31, 2019. In the event the Company determines not to continue to assert that all or part of its undistributed foreign earnings are permanently reinvested, such a determination in the future could result in the accrual and payment of additional foreign withholding taxes and U.S. taxes on currency transaction gains and losses, the determination of which is not practicable.

The income tax provision consists of the following:

	Year Ended December 31,		
	2019	2018	2017
<b>Current</b>			
Federal	\$ 40	\$ 34	\$ 84
State	3	13	13
Foreign	21	14	7
	<u>64</u>	<u>61</u>	<u>104</u>
<b>Deferred</b>			
Federal	(3)	2	(89)
State	(10)	(2)	(1)
Foreign	(1)	—	(1)
	<u>(14)</u>	<u>—</u>	<u>(91)</u>
<b>Provision for income taxes</b>	<b>\$ 50</b>	<b>\$ 61</b>	<b>\$ 13</b>

Pretax income for domestic and foreign operations consisted of the following:

	Year Ended December 31,		
	2019	2018	2017
Domestic	\$ 175	\$ 190	\$ 234
Foreign	32	33	9
<b>Pretax income</b>	<b>\$ 207</b>	<b>\$ 223</b>	<b>\$ 243</b>

### Deferred taxes

Deferred income tax assets and liabilities are comprised of the following:

	As of December 31,	
	2019	2018
<i>Deferred income tax assets:</i>		
Accrued liabilities and deferred revenues	\$ 97	\$ 87
Tax credits <sup>(a)</sup>	6	12
Provision for doubtful accounts	17	20
Net operating loss carryforward <sup>(b)</sup>	18	14
Other	20	14
Valuation allowance <sup>(c)</sup>	(19)	(15)
<b>Deferred income tax assets</b>	<b>139</b>	<b>132</b>
<i>Deferred income tax liabilities:</i>		
Depreciation and amortization	508	517
Other	15	12
<b>Deferred income tax liabilities</b>	<b>523</b>	<b>529</b>
<b>Net deferred income tax liabilities</b>	<b>\$ 384</b>	<b>\$ 397</b>
<i>Reported in:</i>		
Other non-current assets	\$ 3	\$ 2
Deferred income taxes	387	399
<b>Net deferred income tax liabilities</b>	<b>\$ 384</b>	<b>\$ 397</b>

(a) As of December 31, 2019, the Company had \$6 million of foreign tax credits. The foreign tax credits expire no later than 2029.

(b) As of December 31, 2019, the Company's net operating loss carryforwards primarily relate to state net operating losses, which are due to expire at various dates, but no later than 2039.

(c) The valuation allowance of \$19 million at December 31, 2019 relates to net operating loss carryforwards, certain deferred tax assets and foreign tax credits of \$14 million, \$3 million and \$2 million, respectively. The valuation allowance of \$15 million at December 31, 2018 relates to net operating loss carryforwards, certain deferred tax assets and foreign tax credits of \$11 million, \$3 million, and \$1 million, respectively. The valuation allowance will be reduced when and if the Company determines it is more likely than not that the related deferred income tax assets will be realized.

The Company's effective income tax rate differs from the U.S. federal statutory rate as follows for the years ended December 31:

	2019	2018	2017
Federal statutory rate	21.0 %	21.0 %	35.0 %
State and local income taxes, net of federal tax benefits	(3.8)	2.9	3.6
Taxes on foreign operations at rates different than U.S. federal statutory rates	5.0	1.9	0.8
Taxes on foreign income, net of tax credits	(0.5)	0.3	0.4
Valuation allowances	1.9	1.4	(0.1)
Impact of U.S. tax reform	—	(1.8)	(34.9)
Other	0.6	1.7	0.5
	<b>24.2 %</b>	<b>27.4 %</b>	<b>5.3 %</b>

The effective income tax rate for 2019 and 2018 differs from the U.S. Federal income tax rate of 21% primarily due to U.S. and foreign taxes on the Company's international operations and state taxes. During 2019, the tax effect was partially offset by one-time state tax benefits resulting from a settlement with state taxing authorities and from a change in the Company's state income tax filing position due to its spin-off from Wyndham Worldwide. The effective income tax rate for 2017 differs from the U.S. Federal income tax rate of 35% primarily due to state taxes and the net tax benefit from the impact of U.S. tax reform.

The following table summarizes the activity related to the Company's unrecognized tax benefits as of December 31:

	2019	2018	2017
Beginning Balance	\$ 13	\$ 12	\$ 13
Increases related to tax positions taken during a prior period	2	2	—
Increases related to tax positions taken during the current period	—	1	2
Decreases related to settlements with taxing authorities	(3)	—	—
Decreases as a result of a lapse of the applicable statute of limitations	(1)	(2)	(2)
Decreases related to tax positions taken during a prior period	—	—	(1)
Ending Balance	<u>\$ 11</u>	<u>\$ 13</u>	<u>\$ 12</u>

The gross amount of the unrecognized tax benefits that, if recognized, would affect the Company's effective tax rate was \$11 million, \$13 million and \$12 million as of December 31, 2019, 2018 and 2017, respectively. The Company recorded both accrued interest and penalties related to unrecognized tax benefits as a component of provision for income taxes on the Consolidated and Combined Statements of Income. The amount of potential penalties and interest related to these unrecognized tax benefits recorded in the provision for income taxes was a benefit of \$1 million during 2019, an expense of \$1 million during 2018, and an expense of less than \$1 million during 2017. The Company had a liability for potential penalties of \$2 million as of December 31, 2019, 2018 and 2017 and potential interest of \$2 million as of December 31, 2019 and \$3 million as of both December 31, 2018 and 2017. Such liabilities are reported as a component of accrued expenses and other current liabilities and other non-current liabilities on the Consolidated Balance Sheets. The Company does not expect the unrecognized tax benefits to change significantly over the next 12 months.

The Company files income tax returns in the U.S. federal and state jurisdictions, as well as in foreign jurisdictions. Prior to our spin-off, the Company was part of a consolidated U.S. federal income tax return and consolidated and combined state returns with its former Parent and other subsidiaries that are not included in its Consolidated and Combined Financial Statements. Income taxes as presented in the Company's Consolidated and Combined Financial Statements prior to our spin-off presented current and deferred income taxes of the consolidated federal tax filing attributed to the Company using the separate return method. The separate return method applies the accounting guidance for income taxes to the financial statements as if the Company was a separate taxpayer. The 2015 through 2019 tax years generally remain subject to examination by federal tax authorities, the years 2015 through pre-spin off 2018 tax years as part of the Company's former Parent filing. The 2010 through 2019 tax years generally remain subject to examination by many state tax authorities. In significant foreign jurisdictions, the 2012 through the 2019 tax years generally remain subject to examination by their respective tax authorities. The statute of limitations is scheduled to expire within 12 months of the reporting date in certain taxing jurisdictions, and the Company therefore believes that it is reasonably possible that the total amount of its unrecognized tax benefits could decrease by \$4 million to \$5 million.

The Company made federal and state income tax payments, net of refunds, in the amount of \$43 million for the twelve months ended December 31, 2019. These payments exclude \$195 million of tax payments related to assumed liabilities in connection with the La Quinta acquisition. During the years 2018 and 2017, the former Parent paid \$27 million and \$93 million, respectively, of federal and state income tax liabilities related to the Company, which is reflected in its Consolidated and Combined Financial Statements as an increase in former Parent's net investment. Following the Company's spin-off in 2018, the Company made federal and state income tax payments, net of refunds, in the amount of \$39 million. Additionally, the Company made foreign income tax payments, net of refunds, in the amount of \$16 million in 2019 and \$12 million in 2018 and 2017.

**9. PROPERTY AND EQUIPMENT, NET**

Property and equipment, net consisted of:

	<b>As of December 31,</b>	
	<b>2019</b>	<b>2018</b>
Land	\$ 19	\$ 17
Buildings and leasehold improvements	214	212
Capitalized software	311	292
Furniture, fixtures and equipment	92	86
Finance leases	72	72
Construction in progress	21	22
	<u>729</u>	<u>701</u>
Less: Accumulated depreciation	422	375
	<u>\$ 307</u>	<u>\$ 326</u>

Wyndham Hotels recorded depreciation expense of \$71 million, \$68 million, and \$55 million during 2019, 2018 and 2017, respectively, related to property and equipment.

**10. ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES**

Accrued expenses and other current liabilities consisted of:

	<b>As of December 31,</b>	
	<b>2019</b>	<b>2018</b>
Accrued payroll and related expenses	\$ 83	\$ 109
Accrued loyalty program liabilities	56	54
Accrued self-insurance liabilities	29	15
Accrued taxes payable	17	15
Accrued professional expenses	12	7
Due to former Parent	10	11
Performance guarantee liability (Note 13)	10	9
Accrued restructuring (Note 16)	8	—
Accrued legal settlements (Note 13)	7	25
Accrued interest	6	6
Accrued separation expenses	5	19
Accrued marketing expenses	5	8
Operating lease liabilities (Note 18)	5	—
La Quinta tax liability (Note 5)	—	205
Other	26	19
	<u>\$ 279</u>	<u>\$ 502</u>

## 11. LONG-TERM DEBT AND BORROWING ARRANGEMENTS

The Company's indebtedness consisted of:

	As of December 31,			
	2019		2018	
	Amount	Weighted Average Rate <sup>(b)</sup>	Amount	Weighted Average Rate <sup>(b)</sup>
<b>Long-term debt: <sup>(a)</sup></b>				
\$750 million revolving credit facility (due May 2023)	\$ —		\$ —	
Term loan (due May 2025)	1,568	4.00%	1,582	4.25%
Senior unsecured notes (due April 2026)	494	5.38%	494	5.38%
Finance leases	60	4.50%	65	4.50%
Total long-term debt	2,122		2,141	
Less: Current portion of long-term debt	21		21	
<b>Long-term debt</b>	<b>\$ 2,101</b>		<b>\$ 2,120</b>	

(a) The carrying amount of the term loan and senior unsecured notes are net of deferred debt issuance costs of \$18 million and \$21 million as of December 31, 2019 and 2018, respectively.

(b) Weighted average interest rate based on year-end balances, including the effects from hedging.

### Maturities and capacity

The Company's outstanding debt as of December 31, 2019 matures as follows:

	Long-Term Debt
Within 1 year	\$ 21
Between 1 and 2 years	21
Between 2 and 3 years	21
Between 3 and 4 years	21
Between 4 and 5 years	22
Thereafter	2,016
Total	<u>\$ 2,122</u>

As of December 31, 2019, the available capacity under the Company's revolving credit facility was as follows:

	Revolving Credit Facility
Total capacity	\$ 750
Less: Letters of credit	15
Available capacity	<u>\$ 735</u>

### Long-term debt

**\$750 million Revolving Credit Facility.** During May 2018, the Company entered into an agreement for a \$750 million revolving credit facility expiring in May 2023. This facility is subject to an interest rate per annum equal to, at Wyndham Hotels' option, either a base rate plus a margin ranging from 0.50% to 1.00% or LIBOR plus a margin ranging from 1.50% to 2.00%, in either case based upon the total leverage ratio of the Company and its restricted subsidiaries. In addition, Wyndham Hotels will pay a commitment fee on the unused portion of the revolving credit facility of 0.20% per annum.

**\$1.6 billion Term Loan Agreement.** During May 2018, the Company entered a credit agreement for a \$1.6 billion term loan (the "Term Loan") expiring in May 2025. The interest rate per annum applicable to the Term Loan is equal to, at the Company's option, either a base rate plus a margin of 0.75% or LIBOR plus a margin of 1.75%. The LIBOR rate with respect to the Term Loan is subject to a "floor" of 0.00%. The Term Loan began amortizing in equal quarterly installments beginning in the fourth quarter of 2018 in aggregate annual amounts equal to 1.00% of the original principal amount thereof. The Term Loan is subject to standard mandatory prepayment provisions including (i) 100% of the net cash proceeds from issuances or

incurrence of debt by Wyndham Hotels or any of its restricted subsidiaries (other than with respect to certain permitted indebtedness); (ii) 100% (with step-downs to 50% and 0% based upon achievement of specified first-lien leverage ratios) of the net cash proceeds from certain sales or other dispositions of assets by Wyndham Hotels or any of its restricted subsidiaries in excess of a certain amount and subject to customary reinvestment provisions and certain other exceptions; and (iii) 50% (with step-downs to 25% and 0% based upon achievement of specified first-lien leverage ratios) of annual (commencing with the 2019 fiscal year) excess cash flow of Wyndham Hotels and its restricted subsidiaries, subject to customary exceptions and limitations.

The revolving credit facility and term loan (the "Credit Facilities") are guaranteed, jointly and severally, by certain of Wyndham Hotels' wholly-owned domestic subsidiaries and secured by a first-priority security interest in substantially all of the assets of Wyndham Hotels and those subsidiaries. The Credit Facilities were initially guaranteed by Wyndham Worldwide, which guarantee was released immediately prior to the consummation of the spin-off. The Credit Facilities contain customary covenants that, among other things, restrict, subject to certain exceptions, Wyndham Hotels, Inc. and its restricted subsidiaries' ability to grant liens on Wyndham Hotels and its restricted subsidiaries' assets, incur indebtedness, sell assets, make investments, engage in acquisitions, mergers or consolidations and pay certain dividends and other restricted payments. The Credit Facilities require Wyndham Hotels to comply with financial maintenance covenants to be tested quarterly, consisting of a maximum first-lien leverage ratio.

Subject to customary conditions and restrictions, Wyndham Hotels may obtain incremental term loans and/or revolving loans in an aggregate amount not to exceed (i) the greater of \$550 million and 100% of EBITDA, plus (ii) the amount of all voluntary prepayments and commitment reductions under the Credit Facilities, plus (iii) additional amounts subject to certain leverage-based ratio tests.

The Credit Facilities also contain certain customary events of default, including, but not limited to: (i) failure to pay principal, interest, fees or other amounts under the Credit Facilities when due, taking into account any applicable grace period; (ii) any representation or warranty proving to have been incorrect in any material respect when made; (iii) failure to perform or observe covenants or other terms of the Credit Facilities subject to certain grace periods; (iv) a cross-default and cross-acceleration with certain other material debt; (v) bankruptcy events; (vi) certain defaults under ERISA; and (vii) the invalidity or impairment of security interests.

*5.375% Senior Unsecured Notes.* In April 2018, the Company issued \$500 million of senior unsecured notes, which mature in 2026 and bear interest at a rate of 5.375% per year, for net proceeds of \$493 million. Interest is payable semi-annually in arrears on October 15 and April 15 of each year, commencing on October 15, 2018. The Company used the net cash proceeds from the notes to reduce debt due to former Parent.

*Finance Lease.* In connection with the Company's separation from Wyndham Worldwide, Wyndham Hotels was assigned the lease for its corporate headquarters located in Parsippany, New Jersey from its former Parent, which resulted in the Company recording a finance lease obligation and asset of \$66 million and \$43 million, respectively.

#### *Deferred debt issuance costs*

The Company classifies deferred debt issuance costs related to its revolving credit facility within other non-current assets on the Consolidated Balance Sheets. Such deferred debt issuance costs were \$4 million and \$5 million as of December 31, 2019 and 2018, respectively.

#### *Cash flow hedge*

In 2018, the Company hedged a portion of its \$1.6 billion term loan. As of December 31, 2019, the pay-fixed/receive-variable interest rate swaps hedge \$1.1 billion of the Company's term loan interest rate exposure, of which \$600 million expires in June 2024 and has a weighted average fixed rate of 2.54% and \$500 million expires in December 2021 and has a weighted average fixed rate of 2.40%. The variable rates of the swap agreements are based on one-month LIBOR. The aggregate fair value of these interest rate swaps was a \$34 million and \$5 million liability as of December 31, 2019 and 2018, respectively, which was included within other non-current liabilities on the Consolidated Balance Sheets. The effect of interest rate swaps on interest expense, net on the Consolidated and Combined Statements of Income were \$3 million and \$2 million of expense during 2019 and 2018, respectively. There was no hedging ineffectiveness recognized in 2019 or 2018. The Company expects to reclassify approximately \$10 million from AOCI to interest expense during the next 12 months.

### *Interest expense, net*

Wyndham Hotels incurred interest expense of \$104 million, \$67 million and \$7 million in 2019, 2018 and 2017, respectively. Cash paid related to such interest was \$100 million and \$56 million for 2019 and 2018, respectively. Interest income was \$4 million, \$7 million and \$1 million for 2019, 2018 and 2017, respectively.

## **12. FAIR VALUE**

Wyndham Hotels measures its financial assets and liabilities at fair value on a recurring basis and utilizes the fair value hierarchy to determine such fair values. Financial assets and liabilities carried at fair value are classified and disclosed in one of the following three categories:

Level 1: Quoted prices for identical instruments in active markets.

Level 2: Quoted prices for similar instruments in active markets; quoted prices for identical or similar instruments in markets that are not active; and model-derived valuations whose inputs are observable or whose significant value driver is observable.

Level 3: Unobservable inputs used when little or no market data is available. In certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, the level in the fair value hierarchy within which the fair value measurement falls has been determined based on the lowest level input (closest to Level 3) that is significant to the fair value measurement. Wyndham Hotels' assessment of the significance of a particular input to the fair value measurement in its entirety requires judgment, and considers factors specific to the asset or liability.

The fair value of financial instruments is generally determined by reference to market values resulting from trading on a national securities exchange or in an over-the-counter market. In cases where quoted market prices are not available, fair value is based on estimates using present value or other valuation techniques, as appropriate. The carrying amounts of cash and cash equivalents, trade receivables, accounts payable and accrued expenses and other current liabilities approximate fair value due to the short-term maturities of these assets and liabilities. The carrying amounts and estimated fair values of all other financial instruments are as follows:

	<b>December 31, 2019</b>	
	<b>Carrying Amount</b>	<b>Estimated Fair Value</b>
<b>Debt</b>		
Total debt	\$ 2,122	\$ 2,179

The Company estimates the fair value of its debt using Level 2 inputs based on indicative bids from investment banks or quoted market prices with the exception of finance leases, which are estimated at carrying value.

### *Financial instruments*

Changes in interest rates and foreign exchange rates expose Wyndham Hotels to market risk. The Company uses cash flow hedges as part of its overall strategy to manage its exposure to market risks associated with fluctuations in interest rates and foreign currency exchange rates. As a matter of policy, the Company only enters into transactions that it believes will be highly effective at offsetting the underlying risk, and it does not use derivatives for trading or speculative purposes. The Company estimates the fair value of its derivatives using Level 2 inputs.

### *Interest rate risk*

A portion of debt used to finance the Company's operations is exposed to interest rate fluctuations. The Company uses various hedging strategies and derivative financial instruments to create a desired mix of fixed and floating rate assets and liabilities. Derivative instruments currently used in these hedging strategies include interest rate swaps. The derivatives used to manage the risk associated with the Company's floating rate debt are derivatives designated as cash flow hedges.

### *Foreign currency risk*

The Company has currency rate exposure to exchange rate fluctuations worldwide particularly with respect to the Canadian Dollar, the Chinese Yuan, the Euro, the British Pound and the Argentine Peso. The Company uses foreign currency

forward contracts at various times to manage and reduce the currency exchange rate risk associated with its foreign currency denominated receivables and payables, forecasted royalties and forecasted earnings and cash flows of foreign subsidiaries and other transactions. Losses recognized in income from freestanding foreign currency exchange contracts were \$1 million for 2019 and \$2 million for 2018 and 2017.

As required, the Company began accounting for Argentina as a highly inflationary economy as of July 1, 2018. The Company incurred foreign currency exchange losses related to Argentina of \$5 million and \$3 million during 2019 and 2018, respectively. Such losses are included in operating expenses in the Consolidated and Combined Statements of Income.

#### *Credit risk and exposure*

The Company is exposed to counterparty credit risk in the event of nonperformance by counterparties to various agreements and sales transactions. The Company manages such risk by evaluating the financial position and creditworthiness of such counterparties and often by requiring collateral in instances in which financing is provided. The Company mitigates counterparty credit risk associated with its derivative contracts by monitoring the amounts at risk with each counterparty to such contracts, periodically evaluating counterparty creditworthiness and financial position, and where possible, dispersing its risk among multiple counterparties.

#### *Market risk*

The Company is subject to risks relating to the geographic concentration of its hotel properties, which may result in the Company's results of operations being more sensitive to local and regional economic conditions and other factors, including competition, natural disasters and economic downturns, than the Company's results of operations would be, absent such geographic concentrations. Local and regional economic conditions and other factors may differ materially from prevailing conditions in other parts of the world. Excluding cost reimbursement revenues, which are offset by cost reimbursement expense, revenues from transactions in the states of Texas and Florida as a percent of U.S. revenues were approximately 10% and 20%, respectively, during 2019 and 10% and 18%, respectively, during 2018. Revenues in the state of Florida include license and other fees from the Company's former Parent. Excluding these revenues, revenues in the state of Florida as a percent of U.S. revenues were 10% during 2019 and 2018.

During 2019 and 2018, the Company had one customer which accounted for 26% and 22%, respectively, of revenues. Excluding cost reimbursement revenues, which are offset by cost reimbursement expenses, such customer accounted for 10% and 6% of the Company's revenues during 2019 and 2018, respectively.

### **13. COMMITMENTS AND CONTINGENCIES**

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#### *Litigation*

Wyndham Hotels is involved, at times, in claims, legal and regulatory proceedings and governmental inquiries arising in the ordinary course of its business, including but not limited to: breach of contract, fraud and bad faith claims with franchisees in connection with franchise agreements and with owners in connection with management contracts, as well as negligence, breach of contract, fraud, employment, consumer protection and other statutory claims asserted in connection with alleged acts or occurrences at owned, franchised or managed properties or in relation to guest reservations and bookings. The Company may also at times be involved in claims, legal and regulatory proceedings and governmental inquiries relating to bankruptcy proceedings involving efforts to collect receivables from a debtor in bankruptcy, employment matters, claims of infringement upon third parties' intellectual property rights, claims relating to information security, privacy and consumer protection, fiduciary duty/trust claims, tax claims, environmental claims and landlord/tenant disputes. Along with many of its competitors, the Company and/or certain of its subsidiaries have been named as defendants in litigation matters filed in state and federal courts, alleging statutory and common law claims related to purported incidents of sex trafficking at certain franchised and managed hotel facilities. These matters are in the pleading or discovery stages at this time. As of December 31, 2019, the Company is aware of approximately 30 cases filed naming the Company and/or subsidiaries. Based upon the status of these matters, the Company has not made a determination as to the likelihood of loss of any one of these matters and is unable to estimate a range of losses at this time.

The Company assumed one-third of certain contingent and other corporate liabilities of Wyndham Worldwide incurred prior to the spin-off, including liabilities of Wyndham Worldwide related to, arising out of or resulting from certain terminated or divested businesses, certain general corporate matters of Wyndham Worldwide and any actions with respect to the separation plan or the distribution made or brought by any third party.

Wyndham Hotels records an accrual for legal contingencies when it determines, after consultation with outside counsel, that it is probable that a liability has been incurred and the amount of the loss can be reasonably estimated. In making such determinations, Wyndham Hotels evaluates, among other things, the degree of probability of an unfavorable outcome, and when it is probable that a liability has been incurred, its ability to make a reasonable estimate of loss. Wyndham Hotels reviews these accruals each reporting period and makes revisions based on changes in facts and circumstances, including changes to its strategy in dealing with these matters.

Wyndham Hotels believes that it has adequately accrued for such matters with reserves of \$7 million and \$25 million as of December 31, 2019 and December 31, 2018. The Company also had receivables of \$2 million and \$21 million as of December 31, 2019 and 2018, respectively, for certain matters which are covered by insurance and were included in other current assets on its Consolidated Balance Sheets. Litigation is inherently unpredictable and, although Wyndham Hotels believes that its accruals are adequate and/or that it has valid defenses in these matters, unfavorable results could occur. As such, an adverse outcome from such proceedings for which claims are awarded in excess of the amounts accrued, if any, could be material to Wyndham Hotels with respect to earnings and/or cash flows in any given reporting period. As of December 31, 2019, the potential exposure resulting from adverse outcomes of such legal proceedings could, in the aggregate, range up to approximately \$10 million in excess of recorded accruals. However, Wyndham Hotels does not believe that the impact of such litigation will result in a material liability to Wyndham Hotels in relation to its combined financial position or liquidity.

## **Guarantees**

### *Hotel-management guarantees*

The Company had previously entered into hotel-management agreements that provide the hotel owner with a guarantee of a certain level of profitability based upon various metrics. Under such agreements, the Company was required to compensate the hotel owner for any profitability shortfall over the life of the management agreement up to a specified aggregate amount. For certain agreements, the Company may be able to recapture all or a portion of the shortfall payments in the event that future operating results exceed targets.

During 2019, the Company determined it would exit two unprofitable hotel-management agreements initiated in 2012 and 2013. One such agreement covered eight hotel properties. The Company paid \$35 million in the fourth quarter of 2019 to terminate this agreement effective January 1, 2020. Upon the effective date of this agreement, the Company will no longer be required to fund any operating shortfalls under the guarantee agreement. In connection with such hotel-management agreement, the Company had a \$10 million liability as of December 31, 2019, which was included in accrued expenses and other current liabilities on the Consolidated Balance Sheet that is expected to be paid in the first quarter of 2020.

The other agreement was initiated in 2013 and covered 22 hotel properties. In conjunction with this management agreement, which was subject to recapture provisions, the Company's guarantee obligations have been exhausted, and in the third quarter of 2019, the Company elected not to support further out-of-pocket payments by its subsidiary to the hotels' owner. The Company expected that this will result in the hotel-management agreement, including the Company's ability to recapture out-of-pocket payments it had made to the hotels' owner, being terminated. As a result of the decision to no longer support out-of-pocket payments and other factors during the third quarter of 2019, \$48 million of receivables became fully impaired and were written off. The Company also wrote off a \$10 million guarantee asset and derecognized a \$13 million guarantee liability related to such management agreement. As such, the Company recorded a total net non-cash charge of \$45 million which is reported within impairment, net on the Consolidated Statement of Income. The Company entered into an agreement effective October 31, 2019, which terminated the operating performance guarantees.

As of December 31, 2019, the Company only had one remaining performance guarantee. The maximum potential amount of future payments that may be made under this guarantee was \$20 million with an annual cap of \$5 million. This guarantee has a remaining life of approximately four years and is subject to recapture provisions in the event that future operating results exceed targets. To reflect these recapture provisions, the Company had a receivable of \$5 million as of December 31, 2019, of which \$1 million was included in other current assets and \$4 million was included in other non-current assets on its Consolidated Balance Sheet. Such receivable was the result of payments made to date that were subject to recapture and which the Company believes will be recoverable from future operating performance.

As of December 31, 2018, in connection with all three of the then-existing performance guarantees, the Company maintained a liability of \$24 million, of which \$15 million was included in other non-current liabilities and \$9 million was included in accrued expenses and other current liabilities on its Consolidated Balance Sheet. As of December 31, 2018, the Company also had a corresponding \$11 million asset related to the guarantees, of which \$1 million was included in other current assets and \$10 million was included in other non-current assets on its Consolidated Balance Sheet. Such assets were

amortized on a straight-line basis over the life of the agreements. The amortization expense for the performance guarantees noted above was less than \$1 million, \$1 million and \$2 million for 2019, 2018 and 2017, respectively.

Additionally, as of December 31, 2018, the Company had receivables of \$46 million, of which \$45 million were included in other non-current assets and \$1 million was included in other current assets on its Consolidated Balance Sheet, for guarantees subject to recapture provisions. The Company also had receivables of \$21 million for deferred hotel management fees which were included within other non-current assets on the Consolidated Balance Sheets and were fully offset by \$21 million of deferred hotel management fees which were included within deferred revenues on the Consolidated Balance Sheets. These amounts were fully written off in 2019.

#### *Credit support provided and other indemnifications relating to Wyndham Worldwide's sale of its European Vacation Rentals business*

In May 2018, Wyndham Worldwide completed the sale of its European Vacation Rentals business to Compass IV Limited, an affiliate of Platinum Equity, LLC ("Buyer"). In connection with the sale of the European Vacation Rentals business, the Company provided certain post-closing credit support in the form of guarantees to help ensure that the business meets the requirements of certain credit card service providers, travel association and regulatory authorities. Such post-closing credit support may be enforced or called upon if the European vacation rentals business fails to meet its primary obligation to pay certain amounts when due. The European vacation rentals business has provided an indemnity to Wyndham Destinations in the event that the post-closing credit support is enforced or called upon.

Pursuant to the terms of the Separation and Distribution Agreement that was entered into in connection with the Company's spin-off, the Company will assume one-third and Wyndham Destinations will assume two-thirds of losses that may be incurred by Wyndham Destinations or the Company in the event that these credit support arrangements are enforced or called upon by any beneficiary in respect of any indemnification claims made.

The table below summarizes the post-closing credit support guarantees related to the sale of the European Vacation Rentals business, the fair values of such guarantees and the receivables from its former Parent representing two-thirds of such guarantees at December 31, 2019:

	<b>Guarantees</b>	<b>Fair Value of Guarantees</b>	<b>Receivable from former Parent</b>
Post-closing credit support at time of sale	\$ 81	\$ 39	\$ 26
Additional post-closing credit support	46	22	15
<b>Total</b>	<b>\$ 127</b>	<b>\$ 61</b>	<b>\$ 41</b>

The fair value of the guarantees were \$61 million and \$62 million as of December 31, 2019 and 2018, respectively, and were included in other non-current liabilities on the Consolidated Balance Sheets. In connection with these guarantees the Company had receivables from its former Parent of \$41 million as of December 31, 2019 and 2018, which were included in other non-current assets on its Consolidated Balance Sheets.

## **14. STOCK-BASED COMPENSATION**

The Company has a stock-based compensation plan available to grant non-qualified stock options, incentive stock options, stock-settled appreciation rights ("SSARs"), RSUs, performance-vesting restricted stock units ("PSUs") and other stock-based awards to key employees, non-employee directors, advisors and consultants. Under the Wyndham Hotels & Resorts, Inc. 2018 Equity and Incentive Plan ("Stock Plan"), which became effective on May 14, 2018, a maximum of 10.0 million shares of common stock may be awarded. As of December 31, 2019, 6.8 million shares remained available.

### *Incentive equity awards granted by the Company*

During 2019, Wyndham Hotels' Board approved incentive equity award grants to employees of Wyndham Hotels in the form of RSUs, stock options and PSUs.

The activity related to the Company's incentive equity awards for the year ended December 31, 2019 consisted of the following:

	RSUs		PSUs	
	Number of RSUs	Weighted Average Grant Price	Number of PSUs	Weighted Average Grant Price
Balance as of December 31, 2018	0.5	\$ 61.31	—	\$ —
Granted <sup>(a)</sup>	0.6	52.19	0.1	52.44
Vested	(0.1)	61.24	—	—
Canceled	(0.2)	57.37	—	—
Balance as of December 31, 2019	0.8 <sup>(b)</sup>	\$ 55.75	0.1 <sup>(c)</sup>	\$ 52.44

(a) Represents awards granted by the Company primarily in February 2019.

(b) RSUs outstanding as of December 31, 2019 are expected to vest over time and have an aggregate unrecognized compensation expense of \$34 million, which is expected to be recognized over a weighted average period of 2.9 years.

(c) PSUs outstanding as of December 31, 2019 are expected to vest over time and have an aggregate unrecognized compensation expense of \$2 million, which is expected to be recognized over a weighted average period of 2.3 years.

The activity related to stock options granted by the Company for the year ended December 31, 2019 consisted of the following:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (Years)	Aggregate Intrinsic Value (in millions)
Outstanding as of December 31, 2018	0.5	\$ 61.40		
Granted	0.5	52.44		
Exercised	—	—		
Canceled	(0.1)	57.93		
Expired	—	—		
Outstanding as of December 31, 2019	0.9	\$ 56.96	6.8	\$ 5
Unvested as of December 31, 2019	0.8 <sup>(a)</sup>	\$ 56.22	7.0	\$ 5
Exercisable as of December 31, 2019	0.1	\$ 61.40	5.2	\$ —

(a) Unvested options as of December 31, 2019 are expected to vest over time and have an aggregate unrecognized compensation expense of \$6 million, which is expected to be recognized over a weighted average period of 2.8 years.

The fair value of stock options granted by Wyndham Hotels during 2019 and 2018 were estimated on the date of the grant using the Black-Scholes option-pricing model with the relevant assumptions outlined in the table below. Expected volatility is based on both historical and implied volatilities of the stock of comparable companies over the estimated expected life of the options. The expected life represents the period of time the options are expected to be outstanding. The risk-free interest rate is based on yields on U.S. Treasury strips with a maturity similar to the estimated expected life of the options. The projected dividend yield was based on the Company's anticipated annual dividend divided by the price of the Company's stock on the date of the grant.

	2019	2018
Grant date fair value	\$10.46	\$11.72
Grant date strike price	\$52.44	\$61.40
Expected volatility	22.24%	22.72%
Expected life	6.25 years	4.25 years
Risk-free interest rate	2.63%	2.73%
Projected dividend yield	2.21%	1.63%

### Incentive equity award modification

In August 2017, in conjunction with the anticipated spin-off of Wyndham Hotels, the Wyndham Worldwide Board approved certain modifications to the incentive equity awards granted by Wyndham Worldwide. Such modifications were contingent upon the spin-off becoming probable. On May 9, 2018, Wyndham Worldwide's Board approved the spin-off of Wyndham Hotels, resulting in an accelerated vesting of 0.4 million RSUs and 0.1 million PSUs for all outstanding equity awards granted prior to 2018.

### Stock-based compensation expense

Stock-based compensation expense was \$20 million, \$45 million and \$11 million for 2019, 2018 and 2017, respectively. For 2019 and 2018, \$4 million and \$36 million, respectively, was recorded within separation-related costs on the Consolidated and Combined Statements of Income. In 2018, separation-related costs included \$15 million of expense as a result of the modification of the Stock Plan. Further, in 2019, \$1 million was recorded within restructuring expense on the Consolidated and Combined Statements of Income.

## 15. SEGMENT INFORMATION

The reportable segments presented below represent Wyndham Hotels' operating segments for which separate financial information is available and is utilized on a regular basis by its chief operating decision maker to assess performance and allocate resources. In identifying its reportable segments, Wyndham Hotels also considers the nature of services provided by its operating segments. Management evaluates the operating results of each of its reportable segments based upon net revenues and "adjusted EBITDA", which is defined as net income excluding interest expense, depreciation and amortization, impairment charges, restructuring and related charges, contract termination costs, transaction-related items (acquisition-, disposition- or separation-related), foreign currency impacts of highly inflationary countries, stock-based compensation expense and income taxes. Wyndham Hotels believes that adjusted EBITDA is a useful measure of performance for its segments which, when considered with U.S. GAAP measures, allows a more complete understanding of its operating performance. Wyndham Hotels uses these measures internally to assess operating performance, both absolutely and in comparison to other companies, and to make day to day operating decisions, including in the evaluation of selected compensation decisions. Wyndham Hotels' presentation of adjusted EBITDA may not be comparable to similarly-titled measures used by other companies.

	Hotel Franchising		Hotel Management		Corporate and Other (a)		Total
<b>Year Ended or as of December 31, 2019</b>							
Net revenues	\$	1,279	\$	768	\$	6	\$ 2,053
Adjusted EBITDA		622		66		(75)	613
Depreciation and amortization		72		26		11	109
Segment assets		3,817		500		216	4,533
Capital expenditures		35		8		7	50
<b>Year Ended or as of December 31, 2018</b>							
Net revenues	\$	1,135	\$	726	\$	7	\$ 1,868
Adjusted EBITDA		515		47		(55)	507
Depreciation and amortization		72		21		6	99
Segment assets		3,829		580		567	4,976
Capital expenditures		43		27		3	73
<b>Year Ended or as of December 31, 2017</b>							
Net revenues	\$	897	\$	383	\$	—	\$ 1,280
Adjusted EBITDA		402		21		(40)	383
Depreciation and amortization		59		16		—	75
Segment assets		1,727		400		10	2,137
Capital expenditures		35		11		—	46

(a) Includes the elimination of transactions between segments.

Provided below is a reconciliation of net income to adjusted EBITDA.

	Year Ended December 31,		
	2019	2018	2017
Net income	\$ 157	\$ 162	\$ 230
Provision for income taxes	50	61	13
Depreciation and amortization	109	99	75
Interest expense, net	100	60	6
Stock-based compensation expense	15	9	11
Impairment, net	45	—	41
Contract termination costs	42	—	—
Transaction-related expenses, net	40	36	3
Separation-related expenses	22	77	3
Transaction-related item	20	—	—
Restructuring costs	8	—	1
Foreign currency impact of highly inflationary countries	5	3	—
Adjusted EBITDA	<u>\$ 613</u>	<u>\$ 507</u>	<u>\$ 383</u>

The geographic segment information provided below is classified based on the geographic location of Wyndham Hotels' subsidiaries.

	United States	All Other Countries <sup>(a)</sup>	Total
<b>Year Ended or As of December 31, 2019</b>			
Net revenues	\$ 1,805	\$ 248	\$ 2,053
Net long-lived assets	3,619	173	3,792
<b>Year Ended or As of December 31, 2018</b>			
Net revenues	\$ 1,641	\$ 227	\$ 1,868
Net long-lived assets	3,681	179	3,860
<b>Year Ended or As of December 31, 2017</b>			
Net revenues	\$ 1,066	\$ 214	\$ 1,280
Net long-lived assets	1,431	185	1,616

(a) Includes U.S. territories.

## 16. OTHER EXPENSES AND CHARGES

### *CorePoint agreement*

In October 2019, the Company entered into an agreement with CorePoint, a franchisee with which the Company also has hotel-management agreements, to resolve open issues between the two companies. As part of the agreement, the Company recorded a \$20 million fee credit for past services in 2019, representing payments Wyndham is required to make to CorePoint pursuant to the agreement. Such charge is reflected as a reduction to hotel management revenues on the Consolidated and Combined Statements of Income. In addition, the two companies also agreed to finalize outstanding tax matters related to Wyndham's acquisition of La Quinta. As a result, Wyndham also recorded a \$7 million charge in 2019 related to the resolution of the tax matters, which is reflected in transaction-related costs on the Consolidated and Combined Statements of Income. The Company paid \$18 million to CorePoint in 2019 related to such charges; the remaining amounts are expected to be paid primarily in 2020.

### *Impairment, net*

During 2019, the Company incurred a non-cash net impairment charge of \$45 million associated with the termination of a hotel-management arrangement which contained operating performance guarantees and covered 22 hotel properties. The charge is comprised of a \$48 million write-off of receivables, a \$10 million write-off of a guarantee asset and the derecognition of a \$13 million guarantee liability. See Note 13 - Commitments and Contingencies for further details.

During 2017, Wyndham Hotels recorded \$41 million of non-cash impairment charges, of which \$25 million was for a write-down of a guarantee asset and a development advance note receivable related to a hotel management agreement, and \$16 million was primarily related to a partial write-down of management agreement assets. Such amount was recorded within impairment expense on the Consolidated and Combined Statements of Income.

### *Contract termination*

During 2019, the Company incurred contract termination charges of \$42 million. The Company entered into an agreement to terminate a hotel-management agreement which contained operating performance guarantees and covered eight hotel properties. In conjunction with this termination, the Company incurred a contract termination charge of \$34 million. In addition, the Company incurred a contract termination charge of \$8 million in connection with an indemnification obligation associated with the termination of a hotel-management agreement and an associated lease. As of December 31, 2019, the Company had an \$8 million liability related to such charge which was included in accrued expenses and other current liabilities on its Consolidated Balance Sheet. See Note 13 - Commitments and Contingencies for further details.

### *Separation-related*

The Company incurred separation-related costs associated with its spin-off from Wyndham Worldwide of \$22 million and \$77 million for the years ended December 31, 2019 and 2018, respectively. These costs primarily consist of severance, stock-based compensation and other employee-related costs.

### *Transaction-related, net*

The Company incurred \$40 million of transaction-related expenses during the year ended December 31, 2019, which were primarily related to integration activities for the acquisition of La Quinta and includes \$7 million associated with the resolution of certain tax matters discussed above.

During 2018, the Company incurred \$36 million of transaction-related expenses consisting of \$59 million primarily related to the Company's acquisition of La Quinta partially offset by a \$23 million gain on the sale of its Knights Inn brand in May 2018. This sale was not material to the Company's results of operations or financial position.

### *Restructuring*

During 2019, Wyndham Hotels recorded \$8 million of charges related to restructuring initiatives, primarily focused on enhancing its organizational efficiency and rationalizing its operations. These initiatives resulted in a reduction of 58 employees and are comprised of employee separation costs. The charges are recorded primarily to the Corporate and Other segment. During 2019, Wyndham Hotels made no material cash payments related to this initiative. The remaining liability of \$8 million as of December 31, 2019 is expected to be paid by the end of 2020.

During 2017, Wyndham Hotels recorded \$1 million of charges related to restructuring initiatives, primarily focused on realigning its brand operations. These initiatives resulted in a reduction of 12 employees. During 2017, Wyndham Hotels made \$1 million of cash payments related to this initiative.

### *Other charges*

During 2017, Wyndham Hotels recorded a \$20 million write-down of property and equipment related to damage sustained from Hurricane Maria at its owned Rio Mar hotel in Puerto Rico. The property damage was fully recoverable through insurance coverage, the proceeds of which were received in 2017 and 2018.

## **17. TRANSACTIONS WITH FORMER PARENT**

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Wyndham Hotels has a number of arrangements with its former Parent for services provided between both parties as described below.

### *License agreement and other agreements with former Parent*

In connection with the Company's spin-off, Wyndham Hotels and Wyndham Worldwide entered into long-term exclusive license agreements to retain Wyndham Destinations' affiliations with one of the hospitality industry's top-rated loyalty programs, Wyndham Rewards, as well as to continue to collaborate on inventory-sharing and customer cross-sell initiatives.

Wyndham Hotels also entered into several agreements with Wyndham Destinations that govern the relationship of the parties following the spin-off, including a separation and distribution agreement, an employee matters agreement, a tax matters agreement and a transition services agreement. In connection with these agreements, the Company recorded \$6 million and \$7 million of revenues during 2019 and 2018, respectively, which are reported within other revenues on the Consolidated and Combined Statements of Income.

In addition, Wyndham Hotels recorded revenues from Wyndham Destinations in the amount of \$113 million, \$84 million and \$59 million for a license, development and non-competition agreement and \$18 million, \$21 million and \$16 million for activities associated with the Wyndham Rewards program during 2019, 2018 and 2017, respectively. Such fees are recorded within license and other revenues from former Parent on the Consolidated and Combined Statements of Income. Wyndham Hotels also incurred \$8 million of expense during 2019 as a result of an indemnification obligation to Wyndham Destinations related to the termination of a hotel-management agreement and an associated lease. Such expense is recorded within contract termination expenses on the Consolidated and Combined Statement of Income.

These agreements have either not existed historically, or may be on different terms than the terms of the arrangement or agreements that existed prior to the spin-off. The Consolidated and Combined Financial Statements do not reflect the effect of these new and/or revised agreements for periods prior to the spin-off.

### *Transfer of former Parent liabilities and issuances of guarantees to former Parent and affiliates*

Upon the distribution of the Company's common stock to Wyndham Worldwide shareholders, the Company entered into certain guarantee commitments with its former Parent. These guarantee arrangements relate to certain former Parent contingent tax and other corporate liabilities. The Company assumed and is responsible for one-third of such contingent liabilities while its former Parent is responsible for the remaining two-thirds. The amount of liabilities assumed by the Company in connection with the spin-off was \$22 million and \$24 million as of December 31, 2019 and 2018, respectively, which were included within other non-current liabilities. The Company also had a \$2 million and \$11 million liability due to its former Parent which was included within current liabilities on its Consolidated Balance Sheets as of December 31, 2019 and 2018, respectively. In addition, the Company had \$4 million and \$44 million of tax-related receivables due from former Parent as of December 31, 2019 and 2018, respectively, which were included within current assets on its Consolidated Balance Sheets. During 2019, the Company received \$28 million from its former Parent related to net tax refunds, which was included within capital contribution from former Parent on its Consolidated and Combined Statement of Cash Flows.

### *Wyndham Worldwide's sale of its European Vacation Rentals business*

In connection with the sale of the European Vacation Rentals business, the Company was entitled to one-third of the excess of net proceeds from the sale above a pre-set amount. Accordingly, the Company had a net receivable of \$40 million as of December 31, 2018, which it received from its former Parent during 2019. Such amount was included within capital contribution from former Parent on the Company's Consolidated and Combined Statement of Cash Flows.

During 2019, the Buyer notified Wyndham Destinations of certain proposed post-closing adjustments of approximately \$44 million which could serve to reduce the net consideration received from the sale of the European Vacation Rentals business. While Wyndham Destinations intends to vigorously dispute these proposed adjustments, at this time the Company cannot reasonably estimate the probability or amount of the potential liability owed to the Buyer, if any. Any actual liability would be split one-third and two-thirds between the Company and Wyndham Destinations, respectively. As such, the Company's exposure to this post-closing adjustment could be up to \$15 million.

### *Cash management*

Former Parent used a centralized cash management process. Prior to Company's spin-off, the majority of Wyndham Hotels' daily cash receipts were transferred to former Parent and former Parent funded Wyndham Hotels' operating and investing activities as needed. Accordingly, the cash and cash equivalents held by former Parent were not allocated to Wyndham Hotels prior to the spin-off. During such periods, Wyndham Hotels reflected transfers of cash between the Company and former Parent as a component of Due to former Parent, net on its Consolidated Balance Sheets.

**Net transfer to and net contribution from former Parent**

The components of net transfers to and net contribution from former Parent in the Consolidated and Combined Statements of former Parent's Net Investment were as follows:

	<b>Year Ended December 31,</b>	
	<b>2018</b>	<b>2017</b>
Cash pooling and general financing activities	\$ (110)	\$ (227)
Indirect general corporate overhead allocations	12	35
Corporate allocations for shared services	13	29
Stock-based compensation allocations	20	11
Income taxes	27	93
Net transfers to former Parent	(38)	(59)
Contribution of subsidiary borrowings due to former Parent	197	—
Capital contribution from former Parent	106	—
Dividend to former Parent	(109)	—
Other contributions from former Parent, net	66	—
Net contributions from former Parent	260	\$ —
Net transfers to and net contribution from former Parent	<u>\$ 222</u>	<u>\$ (59)</u>

**Services provided by former Parent**

Prior to the Company's spin-off, Wyndham Hotels' Consolidated and Combined Financial Statements included costs for services that its former Parent provided to the Company, including, but not limited to, information technology support, financial services, human resources and other shared services. Historically, these costs were charged to Wyndham Hotels on a basis determined by its former Parent to reflect a reasonable allocation of actual costs incurred to perform the services. During 2018 and 2017, Wyndham Hotels was charged \$13 million and \$29 million, respectively, for such services, which were included in operating and general and administrative expenses in Wyndham Hotels' Consolidated and Combined Statements of Income.

Additionally, former Parent allocated indirect general corporate overhead costs to Wyndham Hotels for certain functions and services provided, including, but not limited to, executive facilities, shared service technology platforms, finance and other administrative support. Accordingly, the Company recorded \$12 million and \$35 million of expenses for indirect general corporate overhead from former Parent during 2018 and 2017, respectively, which are included in general and administrative expenses within its Consolidated and Combined Statements of Income.

These allocations may not, however, reflect the expense Wyndham Hotels would have incurred as an independent, publicly traded company for the periods presented. Actual costs that may have been incurred had Wyndham Hotels been a stand-alone company would depend on a number of factors, including the chosen organizational structure, the functions Wyndham Hotels might have performed itself or outsourced and strategic decisions Wyndham Hotels might have made in areas such as information technology and infrastructure. Following the Company's spin-off, Wyndham Hotels performed these functions using its own resources or purchased services from either former Parent or third parties.

**Insurance**

Prior to the Company's spin-off, former Parent provided the Company with insurance coverage for general liability, property, business interruption and other risks with respect to business operations and charged the Company a fee based on estimates of claims. Wyndham Hotels was charged \$1 million and \$3 million for insurance during 2018 and 2017, respectively, which was included in the Consolidated and Combined Statements of Income.

**Defined contribution benefit plans**

Prior to the Company's spin-off, former Parent administered and maintained defined contribution savings plans and a deferred compensation plan that provided eligible employees of Wyndham Hotels an opportunity to accumulate funds for retirement. Former Parent matched the contributions of participating employees on the basis specified by each plan. Wyndham Hotels' cost for these plans was \$2 million and \$6 million during 2018 and 2017, respectively.

Subsequent to the Company's spin-off, Wyndham Hotels administers and maintains its own defined contribution savings plans and deferred compensation plan. The Company's cost for these plans was \$10 million and \$4 million during 2019 and 2018, respectively.

## 18. LEASES

The Company adopted the new accounting guidance for leases using the modified retrospective approach as of January 1, 2019. Prior-year financial statements were not recast under the new standard, and therefore those amounts are not presented in the tables below. The Company elected the package of transition provisions available for expired or existing contracts, which allowed the Company to carry forward its historical assessments of (i) whether contracts are or contain leases, (ii) lease classification and (iii) initial direct costs. The adoption of the new accounting guidance for leases resulted in the recognition of a \$12 million operating right-of-use asset and a corresponding operating lease liability. Under the prior accounting standard for leases, the Company already had \$41 million of assets and \$59 million of liabilities related to finance leases reflected on the Company's Consolidated Balance Sheet as of December 31, 2018.

The Company leases property and equipment under finance and operating leases. For leases with terms greater than one year, the Company records the related asset and obligation at the present value of lease payments over the term. The Company does not separate lease and nonlease components of equipment leases.

The table below presents the lease-related assets and liabilities recorded on the Consolidated Balance Sheet.

	Classification on the Balance Sheet	December 31, 2019
<b>Assets</b>		
Operating lease assets	Other non-current assets	\$ 29
Finance lease assets	Property and equipment, net	37
Total lease assets		<u>\$ 66</u>
<b>Liabilities</b>		
Current		
Operating lease liabilities	Accrued expenses and other current liabilities	\$ 5
Finance lease liabilities	Current portion of long-term debt	5
Non-current		
Operating lease liabilities	Other non-current liabilities	24
Finance lease liabilities	Long-term debt	55
Total lease liabilities		<u>\$ 89</u>

During 2019, the Company entered into new leases related to its corporate headquarters and call center, which resulted in an increase of \$22 million in both operating lease assets and lease liabilities.

The table below presents the remaining lease term and discount rates for finance and operating leases.

	December 31, 2019
<b>Weighted-average remaining lease term</b>	
Operating leases	7.9 years
Finance leases	9.7 years
<b>Weighted-average discount rate</b>	
Operating leases	4.7%
Finance leases	4.5%

*Undiscounted cash flows*

The table below reconciles the undiscounted cash flows for each of the first five years and total of the remaining years to the finance lease liabilities and operating lease liabilities recorded on the Company's Consolidated Balance Sheet as of December 31, 2019.

	<b>Operating Leases</b>	<b>Finance Leases</b>
2020	\$ 6	\$ 7
2021	5	7
2022	4	7
2023	3	7
2024	3	7
Thereafter	14	39
<b>Total minimum lease payments</b>	<b>35</b>	<b>74</b>
Less: amount of lease payments representing interest	6	14
<b>Present value of future minimum lease payments</b>	<b>29</b>	<b>60</b>
Less: current obligations under leases	5	5
<b>Long-term lease obligations</b>	<b>\$ 24</b>	<b>\$ 55</b>

*Other information*

During 2019, the Company made cash payments totaling \$9 million related to its operating and finance leases which was included within operating activities, and \$5 million of cash payments related to its finance leases which was included within financing activities on the Consolidated Statement of Cash Flows.

During 2019, the Company incurred finance lease expense of \$5 million and \$3 million for amortization of right-of-use assets and interest expense, respectively, and incurred \$6 million of expense related to its operating leases. Under the prior accounting standard for leases, the Company incurred total rent expense of \$8 million and \$5 million during 2018 and 2017, respectively.

**19. ACCUMULATED OTHER COMPREHENSIVE INCOME/(LOSS)**

The components of AOCI are as follows:

<b>Net of Tax</b>	<b>Foreign Currency Translation Adjustments</b>	<b>Cash Flow Hedges</b>	<b>Accumulated Other Comprehensive Income/(Loss)</b>
Balance as of December 31, 2016	\$ —	\$ —	\$ —
Period change	5	—	5
Balance as of December 31, 2017	5	—	5
Period change	(9)	(4)	(13)
Balance as of December 31, 2018	(4)	(4)	(8)
Period change	3	(22)	(19)
Balance as of December 31, 2019	<b>\$ (1)</b>	<b>\$ (26)</b>	<b>\$ (27)</b>

**20. QUARTERLY FINANCIAL DATA (UNAUDITED)**

Provided below are selected unaudited quarterly financial data for the periods ended:

	2019			
	March 31	June 30	September 30	December 31
Net revenues				
Hotel Franchising	\$ 269	\$ 331	\$ 379	\$ 300
Hotel Management	197	201	180	190
Corporate and Other	2	1	1	2
Total Company	468	533	560	492
Total expenses	418	471	469	389
Operating income	50	62	91	103
Interest expense, net	24	26	25	25
Income before income taxes	26	36	66	78
Provision for income taxes	5	10	21	14
Net income	\$ 21	\$ 26	\$ 45	\$ 64
Diluted earnings per share	\$ 0.22	\$ 0.27	\$ 0.47	\$ 0.68
Diluted weighted average shares outstanding	98.2	97.4	96.3	95.0
<i>Reconciliation of net income to adjusted EBITDA</i>				
Net income	\$ 21	\$ 26	\$ 45	\$ 64
Provision for income taxes	5	10	21	14
Depreciation and amortization	29	27	26	28
Interest expense, net	24	26	25	25
Stock-based compensation expense	3	4	4	4
Impairment, net	—	45	—	—
Contract termination costs	—	9	34	(1)
Transaction-related expenses, net	7	11	12	10
Separation-related expenses	21	1	—	—
Transaction-related item	—	—	20	—
Restructuring	—	—	—	8
Foreign currency impact of highly inflationary countries	1	—	3	1
Adjusted EBITDA	\$ 111	\$ 159	\$ 190	\$ 153
<i>Adjusted EBITDA by segment</i>				
Hotel Franchising	\$ 113	\$ 162	\$ 195	\$ 151
Hotel Management	16	16	13	21
Corporate and Other	(18)	(19)	(18)	(19)
Total adjusted EBITDA	\$ 111	\$ 159	\$ 190	\$ 153

	2018			
	March 31	June 30	September 30	December 31
<b>Net revenues</b>				
Hotel Franchising	\$ 203	\$ 289	\$ 348	\$ 295
Hotel Management	99	146	252	229
Corporate and Other	—	—	4	3
<b>Total Company</b>	<b>302</b>	<b>435</b>	<b>604</b>	<b>527</b>
<b>Total expenses</b>	<b>246</b>	<b>396</b>	<b>499</b>	<b>445</b>
<b>Operating income</b>	<b>56</b>	<b>39</b>	<b>105</b>	<b>82</b>
Interest expense, net	1	10	24	25
<b>Income before income taxes</b>	<b>55</b>	<b>29</b>	<b>81</b>	<b>57</b>
Provision for income taxes	16	8	23	14
<b>Net income</b>	<b>\$ 39</b>	<b>\$ 21</b>	<b>\$ 58</b>	<b>\$ 43</b>
Diluted earnings per share	\$ 0.40	\$ 0.21	\$ 0.58	\$ 0.43
Diluted weighted average shares outstanding	99.8	100.0	100.1	99.2
<i>Reconciliation of net income to adjusted EBITDA</i>				
Net income	\$ 39	\$ 21	\$ 58	\$ 43
Provision for income taxes	16	8	23	14
Depreciation and amortization	19	22	30	29
Interest expense, net	1	10	24	25
Stock-based compensation expense	3	1	3	2
Transaction-related expenses, net	2	28	7	(1)
Separation-related expenses	12	35	17	14
Foreign currency impact of highly inflationary countries	—	—	4	(1)
<b>Adjusted EBITDA</b>	<b>\$ 92</b>	<b>\$ 125</b>	<b>\$ 166</b>	<b>\$ 125</b>
<i>Adjusted EBITDA by segment</i>				
Hotel Franchising	\$ 86	\$ 129	\$ 178	\$ 122
Hotel Management	16	8	5	18
Corporate and Other	(10)	(12)	(17)	(15)
<b>Total adjusted EBITDA</b>	<b>\$ 92</b>	<b>\$ 125</b>	<b>\$ 166</b>	<b>\$ 125</b>

## ATTACHMENT 1

### *Unaudited statement of current events*

Subsequent to December 31, 2019, there was a global outbreak of a novel strain of coronavirus (COVID-19), and on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic. The global and domestic response, including mandates from federal, state, and/or local authorities, to mitigate the spread of the virus continues to evolve rapidly and has impacted global commercial activity and contributed to significant volatility in financial markets and within the hospitality sector.

As of the date of the Disclosure Document to be issued, the COVID-19 pandemic may negatively impact future operations which could result in a material impact to the Company's future financial condition, results of operations, and cash flows. Specifically, as of March 17, 2020, the Company has provided notice to its lenders to borrow the remaining available amount under its revolving credit facility so that a total of \$750 million of the revolving credit facility will be utilized and will have borrowings of \$735 million as of the receipt of funds. Additionally, the Company has temporarily suspended its share repurchase activities.

## GUARANTY OF PERFORMANCE

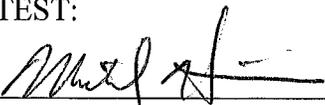
For value received, WYNDHAM HOTELS & RESORTS, INC., a Delaware corporation, located at 22 Sylvan Way, Parsippany, New Jersey 07054, USA, absolutely and unconditionally guarantees the performance by its indirect subsidiary, TMH WORLDWIDE, LLC, a Delaware corporation, with its registered office located at 22 Sylvan Way, Parsippany, New Jersey 07054, USA, as franchisor, of all its obligations in accordance with the terms and conditions of its franchise, membership, license agreements and other agreements issued pursuant to the Trademark Collection Hotel Franchise Disclosure Document and entered into from and after the date hereof as such franchise, membership, license and other agreements shall have been or may hereafter be amended, modified, renewed or extended from time to time. This Guaranty shall continue in force until all such obligations of TMH WORLDWIDE, LLC shall have been satisfied or until such liability of TMH WORLDWIDE, LLC to such franchisees, members or licensees has been completely discharged, whichever first occur. WYNDHAM HOTELS & RESORTS, INC. shall not be discharged from liability hereunder as long as any such claim by a franchisee, member or licensee against TMH WORLDWIDE, LLC remains outstanding. Notice of acceptance is waived. Notice of default on the part of TMH WORLDWIDE, LLC is not waived. This Guaranty shall be binding upon WYNDHAM HOTELS & RESORTS, INC., its successors and assigns.

IN WITNESS WHEREOF, WYNDHAM HOTELS & RESORTS, INC. has, by a duly authorized officer, executed this Guaranty of Performance in Parsippany, New Jersey as of the 30<sup>th</sup> day of March, 2020.

WYNDHAM HOTELS & RESORTS, INC.  
a Delaware corporation

By:   
Michele Allen  
Executive Vice President and Chief Financial Officer

ATTEST:

By:   
Michael Heistein  
Senior Vice President, Legal

**EXHIBIT E-1**

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**EXHIBIT E-1**  
**TMH WORLDWIDE, LLC**  
**US OPEN AND OPERATING FACILITIES**  
**AS OF 12/31/2019**

ADDRESS	CITY	STATE	ZIP	ENTITY	PHONE
326 FRONT ST.	KETCHIKAN	AK	99901	KETCHIKAN HOSPITALITY, INC.	907-821-1251
2250 W STATE ROUTE 89A	SEDONA	AZ	86336-5426	SEDONA ROUGE LLC	928-340-5314
1404 N COAST HIGHWAY	LAGUNA BEACH	CA	92651	SUTTER COUNTY HOSPITALITY, INC AND CASTROVILLE MOTEL INVESTM	949-494-6464
3410 WESTOVER STREET	MCCLELLAN	CA	95652	OCEANIC VICTORVILLE LLC	619-428-4486
24630 SUNNYMEAD BLVD	MORENO VALLEY	CA	92553	JTW & J, INC	999-999-9999
1945 EAST HOLT BLVD	ONTARIO	CA	91761	1945 HOLT SUITES LLC	909-390-7778
105 ROCKAWAY BEACH AVE	PACIFICA	CA	94044	UPSKY LIGHTHOUSE HOTEL LLC	650-373-7067
4003 LAKE TAHOE BLVD.	SOUTH LAKE TAHOE	CA	96150	NBT-ERIE TAHOE, LLC	530-541-5000
3905 SW 43RD STREET	GAINESVILLE	FL	32608	43RD STREET HOTEL PARTNERS, LLC	352-333-9333
3151 PANTANAL LANE	KISSIMMEE	FL	34747	CND HOSPITALITY, LLC	407-507-5900
7430 BROOKLYN DRIVE	KISSIMMEE	FL	34747	MV2 HOSPITALITY, LLC	407-992-8802
105 NORTH BAYSHORE DRIVE	SAFETY HARBOR	FL	34695	SAFETY HARBOR RESORT AND SPA, LLC	727-216-6977
3600 PIEDMONT ROAD	ATLANTA	GA	30305	MYSICA PROGRESSIVE COMPANY, L.L.C.	404-869-1100
3450 DREW AVENUE	SANDWICH	IL	60548	MONTCLER HOTEL & RESORT CORPORATION	630-394-5124
140 N. FOURTH ST.	LOUISVILLE	KY	40202	SCHNEIDER HOTELS, LLC	502-588-4070
2683 ENERGY DR	BATON ROUGE	LA	70808	S & R HOTELS, LLC	318-230-5015
N3332 PINE MOUNTAIN ROAD	IRON MOUNTAIN	MI	49801	PINE MOUNTAIN OPERATIONS, LLC	715-324-5800
3864 GREEN MOUNTAIN DR	BRANSON	MO	65616	PATTON HOSPITALITY MANAGEMENT, INC.	999-999-9999
814 SHEPARD ST.	MOREHEAD	NC	28557	CROWN HOTEL AND	999-999-9999

ADDRESS	CITY	STATE	ZIP	ENTITY	PHONE
	CITY			TRAVEL MGT, LLC	
7270 CEDAR STREET	OMAHA	NE	68124	GP HOTEL OMAHA, LLC	720-857-9000
391 WASHINGTON STREET	BUFFALO	NY	14203	TAP ROOM AT THE LAFAYETTE, INC	716-853-1505
92 PEARL STREET	BUFFALO	NY	14202	TAP ROOM AT THE LAFAYETTE, INC	716-853-1505
1405 OLD ROAD	CLYMER	NY	14724	SCOTT'S PEEK'N PEAK LLC	814-868-9500
8-08 QUEENS PLAZA SOUTH	LONG ISLAND CIT	NY	11101	MARUTI RAVAMI LLC	718-289-6101
600 N. AURORA RD.	AURORA	OH	44202	B & I HOTEL MANAGEMENT, LLC	999-999-9999
11080 CONCORD HAMB DEN RD.	PAINESVILLE	OH	44077	GP HOTEL OHIO, LLC	720-857-9000
117 SOUTH WATSON RD.	ARLINGTON	TX	76010	AMERISHAL INVESTMENTS, LLC	817-300-7786
101 N. MAIN ST.	MCCALLEN	TX	78501	RSS CSAIL2015C3-TX NML, LLC	999-999-9999
784 WEST RESORT DRIVE	MIDWAY	UT	84049	MIDWAY PROPERTIES GROUP, LLC	435-901-0601
1450 S HILTON DR	SAINT GEORGE	UT	84770-6752	NISHA HOSPITALITY, LLC	801-317-7736
2900 CHANDLERS MOUNTAIN ROAD	LYNCHBURG	VA	24502	R & P KIRKLEY, LLC	999-999-9999
6945 POCAHONTAS TRL	WILLIAMSBURG	VA	23185	FORT MAGRUDER HOSPITALITY LLC	307-699-0715
1 NORTH MAIN STREET	FOND DU LAC	WI	54935	HOTEL RETLAW, LLC	305-710-2214
N16800 SHORELINE DR.	PEMBINE	WI	54156	PEMBINE RESORT HOSPITALITY OPERATIONS, LLC	715-324-5800
2501 RIVER ROAD	WISCONSIN DELLS	WI	53965	CHULA VISTA, INC	608-448-9622
1 LAKEVIEW DR.	MORGANTOWN	WV	26508	AILMT HOSPITALITY LLC	908-917-8747

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**EXHIBIT E-1**  
**TMH WORLDWIDE, LLC**  
**US FRANCHISE AGREEMENTS SIGNED BUT NOT OPENED**  
**AS OF 12/31/2019**

<b>ADDRESS</b>	<b>CITY</b>	<b>STATE</b>	<b>ZIP</b>	<b>ENTITY</b>	<b>PHONE</b>
518 7TH ST.	EUREKA	CA	95501	999-999-9999	EUREKA INN, LLC
1543 W OLYMPIC BLVD	LOS ANGELES	CA	90015	999-999-9999	JOHN YOUNG RHEE
111 W. HURON ST.	CHICAGO	IL	60654	312-447-3440	HCP OXFORD OBG WACKER PROPERTY COMPANY, LLC
155 HOLIDAY DR	SOLOMONS	MD	20688	410-326-6311	MDC ASSET MANAGEMENT CORPORATION
2078 SPRUCE STREET	RANIER	MN	56668	999-999-9999	RANIER DEVELOPMENT COMPANY, LLC
176 COUNTRY CLUB DRIVE	WAYNESVILLE	NC	28786	999-999-9999	MOUNTAIN PRESERVATION, LLC
291 LIVINGSTON STREET	BROOKLYN	NY	11219	999-999-9999	HELLO LIVINGSTON EXTENDED LLC
110 EAST 36TH STREET NORTH	TULSA	OK	74106	999-999-9999	ALFRESCO GROUP, LLC
541 W. HAMILTON STREET	ALLENTOWN	PA	18102	999-999-9999	AMERICUS INVESTORS, LP
1004 BRETT FAVRE PASS	GREEN BAY	WI	54304	999-999-9999	VICTORIA FABRY, DENNIS DOUCETTE, AND RICHARD OTRADOVEC
1 JAMES RIVER TURNPIKE RD.	CULLODEN	WV	25510	999-999-9999	GRAND PATRICIAN RESORT, LLC

**EXHIBIT E-2**

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**EXHIBIT E-2**  
**TMH WORLDWIDE, LLC**  
**GUEST LODGING FACILITIES WHICH VOLUNTARILY OR INVOLUNTARILY**  
**LEFT THE CHAIN FROM 01/01/2019 TO 12/31/2019**

<b>CITY</b>	<b>STATE</b>	<b>ENTITY</b>	<b>PHONE</b>
BRANSON	MO	GRAND PLAZA HOTEL, LLC	(706) 409-3112
WATFORD CITY	ND	1505 15TH AVE CO., LLC	(701) 842-7323

**EXHIBIT E-2**  
**TMH WORLDWIDE, LLC**  
**GUEST LODGING FACILITIES WHICH DID NOT COMMUNICATE WITH THE**  
**FRANCHISOR WITHIN 10 WEEKS OF THE DISCLOSURE DOCUMENT**  
**ISSUANCE DATE**

**NONE**

## **EXHIBIT F**

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**North America**

**Standards of Operation and Design Manual**

**TMH Worldwide, LLC**

**(Revised December 30, 2019)**

**TMH Worldwide, LLC**

**22 Sylvan Way  
Parsippany, NJ 07054**

# Table Of Contents For Trademark Collection by Wyndham

<b>Administrative Policies</b> .....	4
Accounting .....	4
Submission of Monthly Reporting .....	4
Billing and Common Charges .....	6
Travel Agent Commissions .....	7
GDS (Global Distribution System) and Internet Fees .....	8
Disputed Charges and Credits .....	9
Delinquent Payments, Insufficient Funds and Service Restoration .....	10
WHR Global Conference .....	11
Telephone Charges .....	12
Gross Room Revenue Calculation .....	13
Bad-Debt Allowances .....	14
Packages .....	15
Guest Transportation Allocation .....	16
Franchise and Night Audit .....	17
Franchise Audit Procedures .....	17
Records Required for an Audit .....	18
Night Audit Packs .....	19
Guest Folio Posting Procedures .....	20
Insurance .....	21
Minimum Insurance Requirements .....	21
Insurance for Leased Restaurant, Lounge or Recreational Facility .....	24
Additional Insured .....	25
Insurance Cancellation and Change Notices .....	26
Certificate of Insurance .....	27
Failure to Carry Insurance .....	28
Insurance Notice Address .....	29
Quality and Training .....	30
Customer Care .....	30
Problem Resolution .....	32
Preventative Maintenance .....	33
Obtaining Consumer Feedback .....	34
Lost and Found .....	35
Quality Assurance Process .....	36
Quality Assurance Inspections Scoring .....	37
Quality Assurance Re-Inspection Fees .....	38
Property Improvement Plan .....	39
Waivers / Extensions Of System Standards .....	40
General Manager Certification .....	41
Remedial Training .....	42
Training Attendance .....	43
Property Level Training .....	44
General Manager/Manager-On-Duty(MOD) .....	45

Programs and Policies .....	46
Associates Appearance .....	46
Uniforms .....	47
Guest Privacy .....	48
Fire Protection Policy Requirements .....	49
Travelers with Disabilities .....	50
Compliance with Laws .....	51
Non Smoking Policy .....	52
Pet Policy Requirements .....	54
Wyndham Rewards Program Requirements .....	55
MyPortal .....	57
Operational Support .....	58
Revenue Management .....	59
Marketing and Brand Image .....	60
General Marketing Standards .....	60
Proper Trademark and Logo Usage .....	61
Marketing Language .....	63
Property Designations in Marketing or Promotions .....	64
Advertising Ethics .....	65
Toll-Free Reservations Number and Website Address .....	66
Local Sales and Marketing .....	67
Property Level Websites .....	68
Third Party Agreements and Connections .....	69
E-Mail Address .....	70
E-Mail Marketing .....	71
Requirements for Naming a Property .....	72
Wyndham Rewards Member Levels .....	75
Photography .....	77
Property Systems and Technology .....	78
General High Speed Internet Access Requirements .....	78
HSIA Business Requirements .....	80
HSIA Security Requirements .....	81
HSIA Hardware and Technology Features Requirements .....	82
Property Management System Technology Requirements .....	83
Property Management System Core Features .....	84
Authorized Property Management Systems .....	85
Enterprise Data Warehouse .....	86
Brand Information Source .....	87
Voluntary Cessation of Integrated System Use .....	89
Telephone System Requirements .....	90
Wake Up System / Service .....	91
Auto / Answering Devices and Recorded Messages .....	92
<b>Hotel Arrival And Exterior .....</b>	<b>93</b>
Exterior Signage .....	93
Exterior Signage Requirements .....	93

Grounds and Landscaping .....	95
Dumpster, Loading Dock and Service Area .....	95
Fencing .....	96
Flags .....	97
Landscaping .....	98
Parking Areas and Driveways .....	99
Sidewalks/Walkways .....	101
Electrical Vehicle Charging Stations .....	102
Property Exterior .....	103
Building Access .....	103
Building Exterior .....	104
Exterior Doors .....	105
Exterior Corridors .....	106
Exterior Lighting .....	107
Exterior HVAC / PTAC .....	108
Entrance Coverage/Porte Cochere .....	109
Property Entrance .....	110
Railings and Stairways .....	111
Roofing .....	112
Windows .....	113
<b>Lobby and Front Desk .....</b>	<b>114</b>
Guest Amenities and Services .....	114
Bell Service .....	114
Cribs .....	115
Front Desk Availability .....	116
Front Desk Promotional Material .....	117
Front Desk Required Items .....	118
Guest Mail / Package Service .....	119
Guest Transportation .....	120
Laundry and Dry Cleaning Service .....	121
Luggage Carts .....	122
Safe Deposit Boxes .....	123
Telephone Service .....	124
Wake Up Call .....	125
Rollaway Beds .....	126
Lobby and Front Desk Design .....	127
Luggage Storage .....	127
Front Desk Area Design .....	128
Front Desk Signage .....	129
House Phone .....	130
Lobby Area Design .....	131
Lobby Area Fixtures and Finishes .....	132
Lobby Atmosphere .....	133
Lobby Background Entertainment .....	134
Lobby Floor Mat .....	135

Lobby Furniture .....	136
Lobby Lighting .....	137
Lobby Window Treatments .....	138
Reservations, Check-in and Check-out .....	139
Availability of Reservations Services .....	139
Reservations Procedures .....	140
Guaranteed Reservations .....	141
Cancellation of Reservations .....	142
Rate and Room Type Availability .....	143
Overbooking Policy .....	144
Payment Methods .....	145
Setting Room Rates .....	146
Wyndham Discount Rate .....	147
Best Rate Guarantee .....	148
Check-In / Check-Out Interactions .....	149
Check-In Procedures .....	150
Check-Out Procedures .....	151
Registration Cards .....	152
<b>Hotel Facilities</b> .....	153
Back of the House Areas .....	153
Housekeeping / Linen / Storage Room .....	153
Back of House Laundry .....	154
Maintenance / Mechanical / Electrical Rooms .....	155
Employee Facilities .....	156
Public Space Components .....	157
Interior Corridors .....	157
Stairwells .....	159
Elevator .....	160
Public Restroom Requirements .....	161
Public Restroom Design .....	162
Recreational Facilities .....	163
Fitness Center Availability .....	163
Fitness Center Equipment .....	164
Fitness Center Supplies .....	165
Fitness Center Design .....	166
Pool/Hot Tub/Spa/Sauna Requirements .....	167
Pool Operations .....	168
Pool Furniture and Equipment .....	169
Miscellaneous Recreational Facility - Operational Standards .....	170
Vending, Laundry and Sundry .....	171
Vending Requirements .....	171
Vending Area Design .....	172
Ice Machine Requirements .....	173
Guest Laundry Requirements .....	174
Guest Laundry Design .....	175

Retail / Sundry Shop / Mart Display and Design .....	176
<b>Meeting and Business</b> .....	178
Business Center and Services .....	178
Business Center / Business Services .....	178
Business Center Equipment .....	179
Meeting Rooms .....	180
Meeting Room Cleanliness and Maintenance .....	180
Meeting Room Signage .....	181
Meeting Room High Speed Internet Access .....	182
<b>Food and Beverage</b> .....	183
Food and Beverage Availability .....	183
General Outlet Requirements .....	183
Lounge/Bar .....	184
Lounge Availability .....	184
Restaurant .....	185
Restaurant Operations .....	185
<b>Guestroom</b> .....	186
Cleaning and Maintenance .....	186
Guestroom Cleaning .....	186
Guestroom Maintenance .....	188
Guest Bathroom .....	189
Guest Bath Design .....	189
Guest Bathroom Entrance/Door .....	190
Guest Bathroom Furnishings and Equipment .....	191
Guest Bathroom Lighting .....	193
Guest Bath Amenities and Supplies .....	194
Guestroom Bed .....	195
General Guest Bed Requirements .....	195
Guest Bed Linen .....	196
Guest Bed Pillows .....	197
Mattress / Foundation Specifications .....	198
Bed Frame Specifications .....	199
Sleeper Sofa Bedding .....	200
Guestroom Design and Furnishings .....	201
Guestroom Doors .....	201
Guestroom Door Locks .....	203
Guestroom Door Signs and Identifiers .....	205
Guestroom Lighting Requirements .....	206
Guestroom Carpet / Flooring .....	207
Guestroom Walls / Ceiling .....	208
Guestroom Mirror .....	209
Guestroom Window .....	210
Guestroom Window Treatment .....	211
Guestroom Closet Requirements .....	212
Guestroom Furniture and Fixture Requirements .....	213

Guestroom Headboard Specifications .....	214
Guestroom Dresser / Credenza / Media Cabinet Specifications .....	215
Guestroom Nightstand Specifications .....	216
Guestroom Desk / Writing Surface Specifications .....	217
Guestroom Seating Specifications .....	218
Luggage Rack .....	219
In Room Safe / Safe Deposit Boxes .....	220
Guestroom Balcony / Patio Guidelines .....	221
Guestroom Renovation Standards .....	222
Guestroom Television .....	223
Guestroom Television Requirements .....	223
Guestroom Television Placement .....	224
Guestroom Television Operating Instructions .....	225
Guestroom Television Channels .....	226
Guestroom Pay-Per-View Channels .....	227
Guest Suites .....	228
Guest Suite Components .....	228
Supplies and Equipment .....	229
Guestroom Operational Supplies and Equipment .....	229
Guestroom Collateral .....	231
Interior HVAC / PTAC .....	232

## Wyndham Rewards Front Desk Guide Table of Contents

<b>WYNDHAM REWARDS OVERVIEW .....</b>	<b>6</b>
Program Integrity .....	7
Program Participation .....	8
Earning Options .....	8-15
Rate Qualification.....	16
Redemption Options .....	17
<b>WYNDHAM REWARDS PROGRAM ADMINISTRATION .....</b>	<b>18</b>
Property Management Systems.....	19
How to Enroll a Member .....	20-21
Posting Member Stay Earnings .....	22
Wyndham Rewards Loyalty Program Charge.....	23-24
Wyndham Rewards Loyalty Program Charge Credit .....	25
Wyndham Rewards Loyalty Retraining Fee.....	26-29
Wyndham Rewards Monthly Valid Enrollment Target .....	30
Wyndham Rewards Missing Stay Administration Fee .....	30-31
Award Night Redemptions .....	31
<b>go free</b> <sup>®</sup> Award Guidelines & Reimbursement.....	31-35
<b>NEW! go fast</b> <sup>SM</sup> Award Guidelines (SRB6) .....	36-38
Member Rate .....	39
Wyndham Rewards Double Points Rate.....	40
<b>WYNDHAM REWARDS PROGRAM MARKETING.....</b>	<b>42</b>
Key Features and Member Benefits .....	43-44
On-Site Marketing: Tools from Wyndham Rewards.....	45
<b>go meet</b> <sup>SM</sup> .....	46
Purchase Points Rewards.....	47
Wyndham Green Housekeeping Program .....	47
<b>WYNDHAM REWARDS MEMBER LEVELS.....</b>	<b>48</b>
Member Levels Overview .....	49
Unlocking Each Member Level .....	50
Member Levels Perks .....	51-52
Free Wi-Fi (Wireless HSIA).....	53
Preferred Room .....	54
Late Check-out.....	54-55
Early Check-in.....	55
Suite Upgrade Including Award Nights .....	56
Welcome Amenity .....	57-59
<b>go free PLUS</b> and <b>go fast PLUS</b> Awards.....	58-59
<b>go free PLUS</b> Experiences .....	60
Dedicated Member Services .....	61
Accelerated Member Services .....	62-63
Points Bonus.....	64
Avis <sup>®</sup> and Budget <sup>®</sup> Car Rental Upgrade.....	64
<b>PROPERTY FREQUENTLY ASKED QUESTIONS.....</b>	<b>66-69</b>

**WYNDHAM REWARDS MEMBER LEVELS FREQUENTLY ASKED QUESTIONS** ..... 70-87

**GUEST FREQUENTLY ASKED QUESTIONS** ..... 88-94

**MYPORTAL RESOURCES** ..... 95

**GLOSSARY** ..... 96-99

**CONTACT INFORMATION** ..... 100

**go fast Addendum** ..... 101-105

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## **EXHIBIT G**

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## State Effective Dates

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the state, 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:

State	Effective Dates
California	Pending
Hawaii	Pending
<u>Illinois</u>	<u>Effective March 31, 2020</u>
Indiana	Effective <del>January 10</del> <u>March 31</u> , 2020
Maryland	Pending
Michigan	Effective <del>January 10</del> <u>March 31</u> , 2020
Minnesota	Pending
New York	Effective <del>January 10</del> <u>March 31</u> , 2020
North Dakota	Pending
Rhode Island	Pending
South Dakota	Effective <del>January 10</del> <u>March 31</u> , 2020
Virginia	Pending
Washington	Pending
Wisconsin	Effective <del>January 10</del> <u>March 31</u> , 2020

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.

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## Receipt

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully. If TMH Worldwide, 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, TMH Worldwide, LLC or an affiliate in connection with the proposed franchise sale.

If TMH Worldwide, 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, D.C. 20580 and the state agency listed on Exhibit B.

The name, principle business address and telephone number of the franchise seller offering the franchise is:

---

Date of Issuance: March 31, ~~2019 as amended January 10,~~ 2020.

See Exhibit B for our registered agents authorized to receive service of process.

I received a disclosure document dated March 31, ~~2019 as amended January 10,~~ 2020, that included the following Exhibits:

- A State Addenda
- B Regulatory Authorities; Registered Agents for Service of Process
- C-1 Membership Agreement including ADA Certification Forms for New Construction Facilities (Pre-Construction and Post-Construction), Affiliation Fee Note, Development Incentive Note, Addendum for Electronic Funds Transfers, Personal Guaranty, Assignment and Assumption Agreement, State Addenda and Membership Application
- C-2(a) SynXis Subscription Agreement
- C-2(b) Elavon Hosted Services Agreement for Hosted Gateway Services
- C-3 Oracle Master Agreement –SaaS Subscription Model OPERA
- C-4 Supplemental Services Agreement – SaaS Subscription Model
- C-5 Three Party Agreement / Lender Notification Agreement; Request Forms
- C-6 Termination and Release Agreement
- C-7 Signature Reservation Services Agreement
- C-8 Hotel Revenue Management Agreement
- C-9 Hotel Connectivity Solutions Agreement
- D Financial Statements and Guaranty of Performance of Wyndham Hotels & Resorts, Inc.
- E-1 List of Facilities in the United States as of December 31, 201~~9~~8
- E-2 List of Facilities in the United States which Voluntarily or Involuntarily left the Trademark System from January 1, 201~~9~~8 to December 31, 201~~9~~8 or which did not communicate with us during the ten week period preceding the date of the Disclosure Document
- F Tables of Content for Standards of Operation and Design Manual and Wyndham Front Desk Guide

**[PLEASE SIGN RECEIPT ON BACK OF PAGE]**

\*10 business days if you are a resident of, or your franchise will be located, in any of the following states: Michigan. The earlier of the “First Personal Meeting” or 10 business days if you are a resident of, or your franchise will be located in New York.

Name of Proposed Franchisee: \_\_\_\_\_

Type of Business Entity: \_\_\_\_\_

\_\_\_\_\_  
Your signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print your name

\_\_\_\_\_  
Print your title

\_\_\_\_\_  
Location in which you are interested

**KEEP THIS COPY FOR YOUR RECORDS.**

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Name of Proposed Franchisee: \_\_\_\_\_

Type of Business Entity: \_\_\_\_\_

\_\_\_\_\_  
Your signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print your name

\_\_\_\_\_  
Print your title

\_\_\_\_\_  
Location in which you are interested

**Please sign this copy of the receipt, date your signature, and return it to TMH Worldwide, LLC, 22  
Sylvan Way, Parsippany, New Jersey 07054.**