

Hotel Management Agreement

Legal Description:

Lot 1, Saddle Creek Midtown, being a replatting of part of Lot 6, Lots 7, 8 and Part of Lot 9, and Part of Lot 30 and Lots 31-33, Block 6, together with vacated alley and a portion of Saddle Creek Road, Briggs Place located in the Southeast Quarter of the Northwest Quarter of Section 20, Township 15 North, Range 13 East of the 6th P.M., Cass County, Nebraska.

Return To:

Charter Title & Escrow Inc.

1125 S. 103rd Street, Suite 400

Omaha, Ne. 68124

FILED UPON SUBMITTER'S DEMAND

MH HOSPITALITY

HOTEL MANAGEMENT AGREEMENT

THIS HOTEL MANAGEMENT AGREEMENT ("Agreement") is made and entered into as of this 1 day of March, 2016 (the "Effective Date") by and between DSL Hospitality, LLC, a Nebraska limited liability company ("Owner"), and MH HOSPITALITY, LLC, a Missouri limited liability company ("Manager").

RECITALS

A. Owner owns a Hotel property located at 42nd and Dodge Street., Omaha, Nebraska (the "Real Estate") upon which are certain improvements owned by Owner that include a building or buildings containing guest rooms, restaurants, meeting rooms, administrative offices and certain other related facilities (the "Improvements") and furniture, fixtures, equipment supplies and inventories and other tangible and intangible property (the "Property") that Owner intends to be used in the operation of a hotel (the Real Estate, Improvements and Property are hereinafter collectively referred to as the "Hotel").

B. The membership interests in Manager are owned by Dan and Monica Marak.

C. Owner desires to engage Manager to manage and operate the Hotel, and Manager desires to accept such engagement, all upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Manager agree as follows:

Article I

DEFINITIONS

1.1 DEFINITIONS. As used herein, the following terms shall have the meanings set forth below:

"Administrative and General Expenses" shall have the meaning set forth in Section 6.2 B (3).

“Agreement” shall have the meaning set forth in the introductory paragraph hereof.

“Annual Budget” shall have the meaning set forth in Section 3.2. C.

“Annual Operating Statements” shall have the meaning set forth in Section 6.3 A.

“Base Management Fee” shall have the meaning set forth in Section 6.1. B.

“Books and Records” shall have the meaning set forth in Section 6.5.

“Capital Expenditure Estimate” shall have the meaning set forth in Section 5.6.

“Capital Expenditure” shall have the meaning set forth in Section 5.6.

“Capital Investment” shall mean the amount of initial capital invested by the members of Owner less all distributions paid to members of Owner as shown on the books and records of the Owner.

“Deductions” shall have the meaning set forth in Section 6.2 B.

“Effective Date” shall have the meaning set forth in the introductory paragraph hereof.

“Event of Force Majeure” shall have the meaning set forth in Section 8.6 D.

“Fiscal Year” shall have the meaning set forth in Section 6.1 B.

“Gross Revenue” shall have the meaning set forth in Section 6.2 A.

“Hotel” shall have the meaning set forth in the Recitals.

“Improvements” shall have the meaning set forth in the Recitals.

“Legal Requirements” shall have meaning set forth in Section 3.3.

“Manager” shall have the meaning set forth in the introductory paragraph hereof.

“Marak” shall mean Dan Marak.

“Minor Casualty” shall have the meaning set forth in Section 5.2 A.

“Monthly Operating Statement” shall have the meaning set forth in Section 6.3 A.

“Mortgage” shall mean an encumbrance on the Real Estate, Improvements and Property, securing indebtedness of Owner.

“Operating Loss” shall have the meaning set forth in Section 6.2 C.

“Operating Profit” shall have the meaning set forth in Section 6.2 B.

“Owner” shall have the meaning set forth in the introductory paragraph hereof.

“Permanent Disability” shall mean if the individual is unable to perform his normal duties for a period of twelve (12) consecutive months.

“Property” shall have the meaning set forth in the Recitals.

“Real Estate” shall have the meaning set forth in the Recitals.

“Term” has the meaning set forth in Section 2.3.

“Total Casualty” shall have the meaning set forth in Section 5.2 B.

“Total Replacement Cost” shall have the meaning set forth in Section 5.2 B.

Article II

ENGAGEMENT OF MANAGER; TERM OF AGREEMENT

2.1 ENGAGEMENT OF MANAGER.

A. Owner hereby authorizes and engages Manager, and Manager accepts its appointment as the operator and manager of the Hotel and Manager agrees to supervise, direct and control the management and operation of the Hotel including any and all other business endeavors related to the Hotel presently operating or hereafter undertaken at the Hotel, all in accordance with the terms and conditions of this Agreement.

B. By its acceptance of this appointment, Manager represents and warrants that (i) it is organized, validly existing, in good standing under the laws of the state of its incorporation or formation, qualified to do business in the state in which the Hotel is located and has all requisite power and authority to enter into and perform its obligations under this Agreement, (ii) the person signing this Agreement is duly authorized to execute this Agreement on its behalf, (iii) it has secured and will keep in effect during the term hereof all necessary licenses, permits and authorizations to enable Manager to perform all of its duties under this Agreement and shall notify Owner immediately should any such license, permit or authorization no longer be in effect or in good standing, and (iv) this Agreement constitutes the legal, valid and binding obligation of Manager and is enforceable according to its terms.

2.2 EXCLUSIVITY. The management and operation of the Hotel shall be under the exclusive supervision and control of Manager subject to the terms and conditions of this Agreement.

2.3 TERM. Subject to Section 2.4, the term of this Agreement (the “Term”) shall commence on the Effective Date and shall continue until the tenth anniversary of the Effective Date; provided, that the Term shall automatically renew for successive periods of one (1) year each (on the same terms and conditions contained in this Agreement) unless either party provides

written notice to the other party not less than ninety (90) days before the date that would otherwise be the last day of the Term, indicating that it does not wish to so extend the Term.

2.4 TERMINATION.

A. In the event a petition in bankruptcy is filed by or against either the Owner or Manager, or in the event either party shall make an assignment for the benefit of creditors or take advantage of any insolvency act, the other party may terminate this Agreement at any time thereafter upon written notice to the other party.

B. In the event either party fails to perform its material duties as set forth in this Agreement, the non-defaulting party shall provide notice of such default to the defaulting party and may terminate this Agreement if the defaulting party fails to cure the default within sixty (60) days, which shall be extended if the cure is commenced but will require more than sixty (60) days to complete for a reasonable period to allow completion of the cure.

C. In the event of the death or Permanent Disability of Marak, the Owner may terminate this Agreement upon thirty (30) days' written notice to the Manager.

D. Notwithstanding the provisions of Section 2.4 B, upon the occurrence of any of the following by the Manager, Owner may terminate this Agreement immediately without notice to Manager:

- (1) Dishonesty, fraud, embezzlement, misrepresentation, misappropriation of funds or property of Owner; or
- (2) Negligence, willful misconduct in the performance of its duties, or attempting to or actually securing any personal profit in connection with any transaction entered into on behalf of the Owner other than the compensation of Manager provided for in Section 6.1.

Article III

Management Responsibilities

3.1 GENERAL RESPONSIBILITIES. Manager shall operate, manage and maintain the Hotel and all of its facilities and activities in a diligent, careful and vigilant manner as a first-class commercial hotel in accordance with the standards imposed by the franchise agreement applicable to the Hotel and in order to maintain the condition and character of the

Hotel and the primary goal of maximizing the present value of Owner's cash flow from the Hotel. Operator shall provide such facilities and services at the Hotel as are normally provided by operators of first-class commercial hotels, consistent with the Hotel's facilities. In fulfilling its obligations under this Agreement, Manager shall act in accordance with the best standards of hotel managers and shall apply reasonable and prudent business practices in operating the Hotel having regard for the status of the Hotel.

3.2 MANAGEMENT FUNCTIONS.

A. Manager shall, subject to the terms of this Agreement, perform each of the functions listed on Schedule 3.2. Subject to the terms of this Agreement, and within the parameters of the Annual Budget approved by Owner, Manager shall have discretion and control, free from interference, interruption or disturbance, in all matters relating to management and operation of the Hotel, including, without limitation, the following: charges for guest rooms, commercial space and services provided by the Hotel; food and beverage services; employment policies; credit policies; granting of leases, subleases, licenses and concessions for shops and businesses within the Hotel provided that the term of any such lease, sublease, license or concession shall not exceed the Term of this Agreement; receipt, holding and disbursement of funds; maintenance of bank accounts; procurement of inventories, supplies and services; payment of costs and expenses specifically provided for in this Agreement or otherwise reasonably necessary for the proper and efficient operation of the Hotel; and, generally, all activities necessary for operation of the Hotel.

B. Manager shall provide written notice to Owner in the event that Manager becomes aware that any of the following have occurred: (1) Manager receives any summons, notice, demand or similar communication regarding any litigation or other legal proceeding against Owner or Manager with respect to the ownership, operation or management of the Hotel, (2) Manager receives any notice from Owner's insurance carrier, denying or limiting coverage, or (3) Manager receives any notice of any threatened or pending condemnation, rezoning or other governmental order proceeding a lawsuit involving the Hotel, or any receipt of any notice or communication of any nature, written or oral, which may have a material adverse effect on the Owner or the Hotel.

C. Within thirty (30) days after the date of this Agreement and on or before the end of each year thereafter, Manager shall submit to Owner, for its approval, the annual operating

budget for the Hotel, which shall include the Capital Expenditures Estimate described in Section 5.6, for the ensuing Fiscal Year (or current Fiscal Year with respect to the first such statement) prepared on a form approved by Owner (the "Annual Budget"). If Owner shall disapprove the proposed Annual Budget or any portion thereof submitted by Manager, Owner shall specify with particularity the reasons for its disapproval and Manager shall, after consultation with Owner, submit to Owner a new proposed Annual Budget or appropriate portion thereof within thirty (30) days after the date of Owner's disapproval of the same, in form and content reasonably satisfactory to Owner. If Manager and Owner are unable to agree upon an Annual Budget by February 1, then Manager is hereby authorized to expend funds without Owner's approval only in amounts and for items that are generally consistent (not to exceed a 5% increase) with the most recent Annual Budget approved by Owner until an Annual Budget is approved by Owner.

3.3 COMPLIANCE WITH LAW. Manager shall use reasonable efforts to comply with and abide by all applicable laws and regulations and with any orders of any governmental authority or agency having jurisdiction over the Hotel including any environmental laws and regulations and any building, zoning or use laws, ordinances, regulations or orders ("Legal Requirements") except for any Legal Requirements which are the Owner's responsibility under this Agreement, provided that Manager shall have the right, but not the obligation, in its reasonable discretion, to contest or oppose, by appropriate proceedings, any such Legal Requirements. All costs and expenses of compliance with, and the reasonable expenses of any contest of a Legal Requirement, shall be paid from Gross Revenues as Deductions in the computation of Operating Profit.

3.4 EMPLOYEES. All personnel employed at the Hotel shall at all times be the employees of the Manager. Except with respect to the general manager of the Hotel, Manager shall be responsible for making all decisions with respect to all personnel employed at the Hotel including, without limitation, decisions regarding hiring, promoting, transferring, compensating, supervising, terminating, directing and training all employees at the Hotel, and, generally, establishing and maintaining all policies relating to employment. With respect to the general manager, Manager agrees that each individual holding such positions shall be subject to the approval of the Owner. In the event Owner disapproves of any candidate for any such positions, Owner will provide to Manager, in writing, the specific reasons for such disapproval. Manager shall be solely responsible for all reporting and payment of employee benefits, taxes,

withholdings, unemployment insurance, and other employer/employee obligations. Manager shall use commercially reasonable efforts to select qualified employees for the Hotel and shall comply in all material respects with applicable employment laws.

3.5 OWNER'S RIGHT TO INSPECT. Owner and its agents shall have access to the Hotel at any and all reasonable times for any reason including the purpose of inspection or showing the Hotel to prospective purchasers, managers or mortgagees.

Article IV OPERATIONS; DISTRIBUTIONS TO OWNER

4.1 ACCOUNTS; PAYMENT FROM ACCOUNTS. All funds derived from operation of the Hotel shall be deposited by Manager in bank accounts (the "Accounts") maintained in the name of Owner in a bank or banks designated by Manager and subject to Owner's reasonable approval. Withdrawals from the Accounts shall be made solely by representatives of Manager whose signatures have been authorized by Owner. Reasonable petty cash funds shall be maintained at the Hotel. All Accounts and all other funds received by the Manager, either from the operation of the Hotel or contributions from Owner, shall constitute funds held by Manager for and on behalf of Owner. No funds held by Manager in the Accounts shall be co-mingled with other funds held by, or belonging to, Manager.

4.2 PAYMENT OF EXPENSES. All payments to be made by Manager under this Agreement shall be in compliance with the Annual Budget and made from the Accounts, from amounts Owner is required to deliver to Manager under this Agreement to fund Operating Losses or otherwise, and from the petty cash funds; provided, however, that if Manager, in its reasonable discretion, deems it necessary to advance monies for and on account of the operation of the Hotel not set forth in the Annual Budget, then Manager shall obtain the written approval of Owner before advancing such monies if the amount exceeds \$25,000. This obligation of reimbursement shall survive the termination of this Agreement. Notwithstanding such right of reimbursement, nothing herein shall be construed to obligate Manager to make any such advances.

4.3 SPECIAL SERVICES. In the event Owner requests that Manager make extraordinary repairs, or engage in extensive reconstruction or rehabilitation of the Hotel or any

portion thereof; or in the event Manager is called upon by Owner to perform any services, not specifically a part of this Agreement, whether or not such services are extraordinary in nature or part of the usual services performed by a hotel manager, Manager shall have no obligation to provide such services unless and until Manager and Owner agree on the additional fee to be paid for such services.

Article V

INSURANCE; REPAIR AND MAINTENANCE

5.1 INSURANCE. During the Term of this Agreement and except as set forth on Schedule 5.1, Manager will procure and maintain, either with insurance companies of recognized responsibility with an A.M. Best rating of B+ or better, VII or better or by legally qualifying itself as a self-insurer for worker's compensation, a minimum of the insurance described on Schedule 5.1 attached to this Agreement. Manager shall deliver to Owner certificates of insurance with respect to all policies so procured and, in the case of insurance policies about to expire, shall deliver certificates with respect to the renewal thereof prior to their expiration. All certificates of insurance provided for under this Section 5.1 shall state that the insurance shall not be canceled or materially changed without at least thirty (30) days' prior written notice to the certificate holder and Owner. Except as provided on Schedule 5.1, all insurance premiums and any other costs or expenses, shall be paid from Gross Revenues as Deductions.

5.2 DAMAGE AND REPAIR.

A. If, during the Term, the Hotel is damaged by a Minor Casualty, Manager shall, with all reasonable diligence, proceed to use reasonable efforts to: (i) process the claim with the applicable insurance carriers, including settling such claim; and (ii) make the necessary arrangements with appropriate contractors and suppliers to repair and/or replace the damaged portion of the Hotel, provided that Manager shall not authorize any repairs that exceed the insurance proceeds without the Owner's consent. Except as specifically noted in the preceding sentence, Owner's consent shall not be needed for Manager to perform any of the foregoing, all of which shall be performed in accordance with Manager's reasonable judgment. Owner agrees to sign promptly any documents which are necessary to process and/or adjust the claim with the

insurance carriers; in addition, Owner agrees to sign promptly any contracts with such contractors and/or suppliers. "Minor Casualty" shall mean any fire or other casualty which results in damage to the Hotel and/or its contents, to the extent that the total cost (as determined by the insurance company adjusting the claim) of repairing and/or replacing of the damaged portion of the Hotel to the same condition as existed previously does not exceed the dollar amount of Five Hundred Thousand Dollars (\$500,000).

B. If, during the Term, the Hotel is destroyed by a Total Casualty, this Agreement shall be terminable at the option of either party upon thirty (30) days' written notice to the other party. "Total Casualty" shall mean any fire or other casualty which results in damage to the Hotel and its contents to the extent that the total cost of repairing and/or replacing the damaged portion of the Hotel to the same condition as existed previously would be thirty percent (30%) or more of the cost to replace the Hotel as determined by the insurance company adjusting the claim ("Total Replacement Cost").

C. If, during the Term, the Hotel is damaged by fire, casualty or other cause to a greater extent than a Minor Casualty, but not to the extent of a Total Casualty, Owner shall, at its cost and expense and with all reasonable diligence, repair and/or replace the damaged portion of the Hotel to the same condition as existed previously. Manager shall have the right to discontinue operating the Hotel to the extent it deems necessary to comply with applicable law or as necessary for the safe and orderly operation of the Hotel. To the extent available, proceeds from the insurance described in Section 5.1 of this Agreement shall be applied to such repairs and/or replacements. In the event that Manager is responsible for obtaining the insurance referred to in Section 5.1 (and Owner has not exercised any right Owner may have under Schedule 5.1 to obtain such insurance) Owner shall be under no obligation to repair or rebuild such damage pursuant to this Section 5.2 unless and until Owner has received the insurance proceeds (in an amount sufficient to pay the cost of such repair or rebuilding), or commitment of the applicable insurers to pay the insurance proceeds (in an amount sufficient to pay the cost of such repair or rebuilding), less any applicable deductibles and retentions. Subject to the foregoing, Owner shall promptly commence and complete the repairing and rebuilding of the damage to the Hotel so that it shall be substantially the same as it was prior to such damage or destruction. Manager shall assist Owner in coordinating the continued operation of the Hotel which is not so damaged to the extent that operation is feasible in compliance with applicable law. Manager shall

promptly respond to any request of Owner relating to the plans and specifications for the work to be performed in such repair and rebuilding.

5.3 CONDEMNATION.

A. In the event all or substantially all of the Hotel shall be taken in any eminent domain, condemnation, compulsory acquisition, or similar proceeding by any competent authority for any public or quasi-public use or purpose, or in the event a portion of the Hotel shall be so taken, but the result is that it is unreasonable to continue to operate the Hotel in accordance with the standards required by this Agreement either party may terminate this Agreement upon written notice to the other party within thirty (30) days of such taking or any conveyance in lieu of taking. Owner and Manager shall each have the right to initiate such proceedings as they deem advisable to recover any damages to which they may be entitled.

B. In the event a portion of the Hotel shall be taken by the events described in Section 5.3.A, or the entire Hotel is affected but on a temporary basis, and the result does not make it unreasonable to continue to operate the Hotel, this Agreement shall not terminate. However, so much of any award for any such partial taking or condemnation as shall be necessary to render the Hotel equivalent to its condition prior to such event shall be used for such purpose; and Manager shall have the right to discontinue operating the Hotel to the extent it deems necessary for the safe and orderly operation of the Hotel.

5.4 SUBROGATION AND INDEMNITY.

A. Owner and Manager hereby mutually waive any and all right of recovery against one another, directly, by way of subrogation, or otherwise, for real or personal property damage occurring to the Property, or resulting in any loss of income, or to any personal property of either party, arising from any occurrence, including negligence, whether or not such party is required to carry, or actually carries, insurance for such damage. Each party shall have the affirmative duty to inform its respective insurance carrier of this provision and the mutual waiver of subrogation herein contained.

B. Notwithstanding anything to the contrary in this Agreement, Owner shall hold Manager harmless, and indemnify and defend Manager, (regardless of whether a third party claim is involved) from claims for all losses (including reasonable attorney's fees), damages and injuries to persons or property resulting from Manager carrying out the provisions of this Agreement or acting under the express or implied directions of Owner or resulting from a

breach of this Agreement by Owner, provided that Manager shall not be entitled to indemnification hereunder to the extent that its negligence or willful misconduct contributed to such losses. The provisions and protections provided in this Article shall survive the termination of this Agreement.

C. Notwithstanding anything to the contrary in this Agreement, Manager shall hold Owner harmless, and indemnify and defend Owner, (regardless of whether a third party claim is involved) from claims for all losses (including reasonable attorney's fees), damages and injuries to persons or property resulting from a breach of this Agreement by Manager, provided that Owner shall not be entitled to indemnification hereunder to the extent that its negligence or willful misconduct contributed to such losses. The provisions and protections provided in this Article shall survive the termination of this Agreement.

5.5 REPAIRS AND MAINTENANCE. Manager shall maintain the Hotel in good repair and condition and in conformity with applicable laws and regulations and shall make or cause to be made such routine maintenance, repairs and minor alterations as it determines necessary for such purposes. The cost of such maintenance, repairs and alterations shall be paid from Gross Revenues and shall be treated as a Deduction when determining Operating Profit.

5.6 CAPITAL EXPENDITURES. Manager shall prepare an annual estimate (the "Capital Expenditure Estimate") of the expenses necessary for non-routine or major repairs, alterations, improvements, renewals, replacements, and additions to the Hotel including, without limitation, the structure, the exterior facade and all of the mechanical, electrical, heating, ventilating, air conditioning, plumbing or vertical transportation elements of the Hotel building (the foregoing expenditures, together with all other expenditures which are classified as "capital expenditures" under generally accepted accounting principles, are collectively "Capital Expenditures"). The Capital Expenditures Estimate may, at Manager's option, include estimates for the purchase of furniture, fixtures and equipment necessary for the continued operation of the Hotel to the standards set forth in this Agreement. Manager shall submit the Capital Expenditure Estimate to Owner each fiscal year on or before December 31, and shall be included as part of the Annual Budget. All Capital Expenditures shall be subject to the approval of the Owner except that Owner agrees to approve any Capital Expenditure not exceeding Twenty Five Thousand Dollars (\$25,000) that is necessary for the Hotel to comply with the standards

described in Section 3.1. Manager shall not make any Capital Expenditure without the prior written consent of Owner, unless otherwise permitted in this Agreement. Notwithstanding anything to the contrary in this Agreement, Manager is authorized to take appropriate remedial action (including making any necessary Capital Expenditures) without receiving Owner's prior consent in the following circumstances: (i) if there is an emergency threatening the Hotel, its guests, invitees or employees; or (ii) if the continuation of the given condition will subject Manager or Owner to civil or criminal liability and Owner has either failed to remedy the situation or has failed to take appropriate legal action to stay the effectiveness of such law, ordinance, regulation or order. Manager shall cooperate with Owner in the pursuit of any such action and shall have the right to participate therein. The cost of all Capital Expenditures (including the expenses incurred by either Owner or Manager in connection with any civil or criminal proceeding described above) shall be borne solely by Owner, and shall not be paid from Gross Revenues. In the event that Owner fails to approve of any Capital Expenditure Estimate within such thirty (30) day period, such Capital Expenditure Estimate shall be deemed disapproved by Owner. In the twenty-five (25) day period following receipt of any disapproval by Owner, the parties will attempt in good faith to resolve any objections of Owner.

Article VI

COMPENSATION OF MANAGER; ACCOUNTING MATTERS

6.1 MANAGER'S COMPENSATION.

A. Owner shall pay Manager a management fee of \$6,000 per calendar month in each of the six months preceding the expected opening of the Hotel. This management fee shall be payable each month in arrears.

B. Owner shall pay Manager a management fee (the "Base Management Fee") in an amount equal to Six Percent (6%) of Gross Revenues for each Fiscal Year, which amount shall be retained by Manager from Gross Revenues each month, subject to adjustment at the end of each Fiscal Year, and shall constitute a Deduction, "Fiscal Year" shall mean Manager's fiscal year, which ends December 31 of each year, and any partial Fiscal Year between the date of this Agreement and the end of the Fiscal Year, or between the termination of the Agreement and the end of the Fiscal Year. All accounting procedures shall be performed by an outside accounting

firm and shall constitute a Deduction. The Base Management Fee shall be payable each month in arrears subject to adjustment at the end of each Fiscal Year.

6.2 GROSS REVENUES; DEDUCTIONS; OPERATING PROFIT.

For purposes of this Agreement, the following terms shall be defined as set forth in this Section 6.2:

A. "Gross Revenues" shall mean, for any accounting period, all revenues and receipts of every kind derived from operating the Hotel and all departments and parts thereof which are properly attributable to such accounting period, including but not limited to: income (from both cash and credit transactions) from rental of guest rooms, telephone charges, stores, offices, exhibit or sales space of every kind; license, leases and concession fees and rentals (not including gross receipts of licensees, lessees and concessionaires); income from vending machines; income from parking; health club membership fees, food and beverage sales; wholesale and retail sales of merchandise; service charges; and proceeds, if any, from business interruption or other loss of income insurance; provided, however, that Gross Revenues shall not include the following: prepaid fees and deposits (including security deposits) until such time as the service in respect of which such fees and deposits has been rendered or such amounts properly forfeited to the Hotel, the value of accommodations or goods and services provided to any person on a complimentary basis, reimbursement from tenants of the operating costs and taxes unless such operating costs and taxes have been included as Deductions, gratuities to employees of the Hotel whether or not they are withheld as part of the service charge by Manager to the extent they are remitted to employees; federal, state or municipal excise, sales or use taxes or any other taxes collected directly from patrons or guests or included as part of any sales price of any goods or services; proceeds from the sale of furniture, fixtures or equipment of the Hotel; interest received or accrued with respect to the Accounts; any refunds, rebates, discounts and credits of a similar nature, given, paid or returned in the course of obtaining Gross Revenues or components thereof; insurance proceeds (other than proceeds from business interruption or other loss of income insurance); condemnation proceeds (other than for a temporary taking); any proceeds from the sale of the Hotel or the refinancing of any debt encumbering the Hotel; loan proceeds; deposits by Owner, reversals of contingencies or tax reserves; allowance for bad debts and settlements of legal proceedings.

B. “Operating Profit” shall mean Gross Revenues minus the following deductions (“Deductions”) paid by Manager on behalf of Owner in operating the Hotel:

- (1) The cost of advertising, marketing, promotion, publicity, public relations and sales;
- (2) Compensation, fringe benefits, payroll taxes, ERISA-related liabilities, pension fund withdrawal liabilities, and other costs related to Hotel employees;
- (3) Administrative and general expenses as shown in the Annual Budget, including, the cost of marketing incurred by the Hotel; advertising and business promotion incurred by the Hotel; expenses for heat, light and power; expenses for computer line charges and other computer network charges; and routine repairs maintenance and minor alterations treated as Deductions under Section 5.5 (the “Administrative and General Expenses”);
- (4) The cost of inventories and linen, china, glassware, tableware, uniforms and similar items, whether used in connection with public space or guest rooms;
- (5) A reasonable reserve for uncollectible accounts receivable as determined by Manager;
- (6) All costs and fees of independent professionals or other third parties who are retained by Manager to perform services required or permitted under this Agreement;
- (7) All costs and fees of attendance by employees of the Hotel at training and manpower development programs sponsored by Manager;
- (8) The Base Management Fee and other fees payable under Section 6.1;
- (9) Insurance costs and expenses as provided in Section 5.1, including losses within the deductible amount on insurance policies;
- (10) Taxes, if any, payable by or assessed against Owner or Manager related to this Agreement or to the operations of the Hotel (exclusive of franchise, corporate, estate, inheritance, succession, capital levy or transfer tax imposed on Owner or Manager or any income tax imposed on any income of Owner or Manager) and real estate and personal property taxes and similar charges relating to the ownership or operation of the Hotel;

- (11) Any item classified as an “operating expense” under the Uniform System of Accounts for the Lodging industry, Tenth Revised Edition, 2006, as published by the American Hotel & Motel Association;
 - (12) Such other costs and expenses incurred by Manager as are specifically provided for elsewhere in this Agreement or are otherwise reasonably necessary for the proper and efficient operation of the Hotel; and
 - (13) Debt service payments relating to any mortgage or deed of trust or other encumbrance on the Hotel, payments pursuant to any equipment leases or other forms of financing for furniture, fixtures and equipment located in or connected with the Hotel or rental payments related to any ground lease of any part of the Real Estate on which the Hotel is located.
- C. “Operating Loss” shall mean a negative difference between Gross Revenues and Deductions.
- D. “Working Capital” shall mean the amount of liquid funds available to pay all Deductions on a timely basis to permit the uninterrupted and efficient operation of the Hotel. The amount of Working Capital to be maintained shall be included in the Annual Budget.

6.3 FINANCIAL REPORTS; ADJUSTMENTS.

A. Manager shall furnish Owner, within fifteen (15) days after the end of each calendar month, a balance sheet and an income statement reflecting Gross Revenues, Deductions and Operating Profit all for the preceding month (“Monthly Operating Statements”). In addition, within ninety (90) days after the expiration of each Fiscal Year, Manager shall deliver to Owner a balance sheet and an income statement setting forth Gross Revenues, Deductions and Operating Profit for the preceding Fiscal Year (“Annual Operating Statements”). Calculations and payments of the Base Management Fee and distributions of Operating Profit made with respect to each month within a Fiscal Year shall be accounted for in arrears on a cumulative basis. Unless otherwise expressly agreed by the parties in writing, all reports required hereunder shall be delivered to Owner via e-mail.

B. Within fifteen (15) business days after delivery of the Annual Operating Statements, the parties shall make any adjustments, by cash payment, in the amounts paid or retained for such calendar year as are needed because of the final figures set forth in such Annual Operating Statements. Such final accounting shall be controlling over the Monthly Operating

Statements. No adjustment shall be made for any Operating Loss or Operating Profit in any preceding or subsequent fiscal year.

6.5 BOOKS AND RECORDS. The Manager shall maintain books and records pertaining to operations at the Hotel on behalf of the Owner which shall at all times be the property of Owner (the "Books and Records"). The Books and Records shall be kept on an accrual basis and in all material respects in accordance with generally accepted accounting principles (U.S., as consistently applied) and the Uniform System of Accounts. Manager shall retain the Books and Records related to any Fiscal Year for a period of four (4) years following the delivery of the Annual Operating Statements for such Fiscal Year. Owner may, with reasonable notice and during Manager's normal business hours and at Owner's expense, examine such records. Upon the termination of this Agreement, all Books and Records related to the operations at the Hotel shall be delivered to Owner, provided that Manager may retain a copy of such Books and Records.

6.6 OWNER'S RIGHT TO AUDIT. If Owner desires, at its own expense, to audit, examine, or review the Books and Records at any time, Owner shall notify Manager in writing of its intention to audit, and Manager shall make all Books and Records available to the auditor. If any audit by Owner discloses an understatement of any amounts due Owner, Manager shall promptly pay Owner such amounts to be due, plus interest thereon at an annual rate equal to the highest Prime Rate reported in the Money Rates Column of The Wall Street Journal plus one percent (1%) per annum from the date such amounts should originally have been paid, plus all costs incurred by Owner in connection with such audit. If any audit discloses that Manager has not received any amounts due it, Owner shall promptly pay Manager such actual amounts without interest. If any audit does not disclose any underpayment to Owner, all costs of the audit shall be paid by Owner.

Article VII

TAXES

7.1 REAL ESTATE AND PERSONAL PROPERTY TAXES. During the Term, Manager shall pay all real estate and personal property taxes, levies, assessments and similar charges in the nature of the foregoing on or relating to the ownership or operation of the Hotel

(“Taxes”), but subject to the limitations set forth in Section 7.2, from Gross Revenues. Any such payments shall be Deductions in determining Operating Profit. Owner shall, within five (5) days after receipt, furnish Manager with copies of official tax bills and assessments which it may receive with respect to the Hotel. Either Owner or Manager (in which case Owner agrees to sign the required applications and otherwise cooperate with Manager in expediting the matter) may initiate proceedings to contest any negotiations or proceedings with respect to any Taxes, and all reasonable costs of any such contest shall be paid from Gross Revenues and shall be a Deduction in determining Operating Profit. Manager shall, as part of its contest or negotiation of any Taxes, be entitled, on Owner's behalf, to waive any applicable statute of limitations in order to avoid paying the Taxes during the pendency of any proceedings or negotiations with applicable authorities.

7.2 OTHER TAXES. The term “Taxes” as used in Section 6.1 shall not include any of the following, all of which shall be paid solely by Owner and not from Gross Revenues: (i) franchise, corporate, estate, inheritance, succession, capital levy or transfer tax, income tax imposed on any income of Owner including income from any distributions to Owner hereunder; (ii) special assessments imposed because of facilities which are constructed by or on behalf of the assessing jurisdiction which directly benefit the Hotel (ex: roads, sidewalks, sewers, culverts, etc.) all of which shall be treated as capital costs and not as Deductions; (iii) “impact fees” which are required of Owner as a condition to the issuance of any site plan approval or zoning variance or building permit all of which shall be treated as capital costs of construction and not as Deductions; or (iv) “tax increment financing” or similar financing. “Taxes” shall include taxes, if any, payable by or assessed against Manager related to this Agreement or to Manager's operation of the Hotel except for any franchise, corporate, estate, inheritance, succession, capital levy or transfer tax imposed on Manager or any income tax imposed on any income of Manager including any income from distributions to Manager pursuant to this Agreement.

Articles VIII MISCELLANEOUS

8.1 NOTICES. All notices required by this Agreement shall be in writing, and shall be deemed served, if (a) delivered in person, (b) mailed by United States Registered or Certified

Mail, return receipt requested, postage prepaid to or (c) sent by e-mail or fax to the following addresses or numbers:

Owner: **DSL HOSPITALITY,LLC**
Attn: Hotel Owner
22052 West 66, Suite 221
Shawnee, KS 66226
E-mail: dandm91066@aol.com

Manager: **MH Hospitality, LLC**
Attn: Dan Marak, Manager
22052 West 66, Suite 221
Shawnee, KS 66226
E-mail: dandm91066@aol.com

Either party may designate a different address by giving notice to the other party, at such party's last known address. Notices shall be deemed received on (a) the date personally delivered, (b) on the third business day after the date mailed by United States Registered or Certified Mail, return receipt requested, postage prepaid or (c) on the date e-mailed or faxed if a duplicate of such notice or consent is sent by a method described in subsection (a) or (b) of this Section 8.1 within one business day of transmittal by e-mail or fax.

8.2 CODE COMPLIANCE. Manager shall use reasonable efforts to cause any improvements constituting the Hotel or the Real Estate, or any equipment thereon to comply in all material respects with the requirements of any statute, ordinance, law or regulation of any government body or of any public authority or official thereon. Manager shall promptly notify Owner of any complaints, warnings, notices or summonses received by Manager relating to such matters.

8.3 ASSIGNMENT. This Agreement shall be binding upon the parties, their heirs, executors, administrators, successors, and assigns, and may not be changed verbally, but only in writing, signed by both of the parties hereto. This Agreement shall not be assigned by any party without the prior written consent of the other party, and any attempted assignment in violation of this Section 8.3 shall be void. For purposes of this Section 8.3, an "assignment" includes, (a) an assignment by operation of law, including by merger or otherwise and (b) a change in the ownership of the party of fifty percent (50%) or more.

8.4 COUNTERPARTS/FACSIMILE TRANSMISSION. This Agreement may be executed in multiple counterparts, each of which shall constitute an original. Facsimile or electronic transmission of any signed original document, and the retransmission of any signed facsimile or electronic transmission, shall be the same as delivery of the original signed document.

8.6 MISCELLANEOUS.

A. Any reference to Owner's prior consent or approval will be defined as written consent or approval delivered in accordance with Section 8.1.

B. This Agreement supersedes all prior agreements, whether written or oral, between the parties with respect to its subject matter, except the Franchise Agreement, and constitutes a complete and exclusive statement of the terms of the agreement between the parties with respect to its subject matter. This Agreement may not be amended, supplemented, or otherwise modified except by a written agreement executed by the parties to be charged with the amendment.

C. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

D. Neither party hereto shall be liable for any breach of its obligations hereunder resulting from causes beyond its reasonable control including, but not limited to, war or civil disturbance, acts of God, fires, explosions, strikes (of its own or other employees), or other labor unrests, riots, embargoes, container shortages, wrecks or delays in transportation, inability to obtain supplies or raw materials, or requirements or regulations of any civil or military authority (an "Event of Force Majeure"). Each of the parties hereto agrees to give prompt and timely notice to the other upon becoming aware of an Event of Force Majeure, such notice to contain details of the circumstances giving rise to, and the expected duration of, the Event of Force Majeure.

Remainder of page intentionally left blank. Signature page to follow.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

OWNER:

DSL Hospitality, LLC

By: 

MARAK CONSULTING, INC
Dan Marak, Manager

MANAGER:

MH HOSPITALITY, LLC

By: 

Dan Marak, Manager

Schedule 3.2

Management Responsibilities

1. Recruit, employ, supervise, direct and discharge the employees at the Hotel.
2. Establish prices, rates and charges for services provided in the Hotel, including guest room rates as established in the current Annual Budget.
3. Establish and revise, as necessary, administrative policies and procedures, including policies and procedures for the control of revenue and expenditures, for the purchasing of supplies and services, for the control of credit, and for the scheduling of maintenance, and verify that the foregoing procedures are operating in a sound manner.
4. Make payments on accounts payable and handle collections of accounts receivable.
5. Arrange for and supervise public relations and advertising, prepare marketing plans.
6. Procure all inventories and replace fixed asset supplies.
7. Prepare and deliver Annual Budgets for approval by Owner, interim accountings, annual accountings, and such other information as is required by this Agreement, which shall be maintained at the Hotel and be available at reasonable times to discuss the above-listed items as well as the operations at the Hotel generally with Owner; and employ Owner approved certified public accountants for any audited financial statements required from time to time by any lender, franchisor or other interested party.
8. Use its best efforts to operate the Hotel within the Annual Budget.
9. Plan, execute and supervise repairs, and maintenance at the Hotel.
10. Obtain and keep in full force and effect, either in Manager's name as agent for Owner, or in Owner's name, as may be required by applicable law, any and all licenses and permits to the extent same is within the control of Manager (or, if same is not within the control of Manager, Manager shall use due diligence and reasonable efforts to obtain and keep same in full force and effect), meet all requirements for insurance policies and keep the same in full force and effect, and supervise compliance of all Hotel operations and employees with all laws, regulations, licenses and ordinances affecting the Hotel or its employees and all requirements of the Hotel's then current franchisor.

11. Supervise and maintain Books and Records in accordance with the provisions of this Agreement.
12. Negotiate and administer leases, licenses and concession agreements. All license or franchise agreements shall be approved in writing by Owner.
13. Keep the Hotel and the furniture, fixtures and equipment in good operating repair and condition.
14. Supervise third parties providing services to or at the Hotel under any contract for services, goods or materials.
15. Perform the duties of Manager as described in this Agreement.

Schedule 5.1

Insurance Requirements

A. Description of Required Insurance.

1. Property insurance on all Hotel property of every kind and description against loss or damage by fire, lightning and all other risks covered by the usual "all risk" coverage endorsement including flood (to the extent available at commercially reasonable terms or if located in a flood plain, to the extent available under the National Flood Insurance Program) and earthquake coverage (excluding California earthquake and to the extent available at commercially reasonable terms), all in an amount not less than one hundred percent (100%) of the replacement cost thereof excluding excavation and foundation costs;

2. Boiler and machinery insurance against loss or damage from accidents of boilers or pressure vessels with a minimum limit equal to the full replacement cost thereof to the extent applicable to the Hotel;

3. Business interruption insurance covering loss of profits and extra expense (including expediting expense) and necessary continuing expenses for interruptions caused by any occurrence covered by the insurance referred to in paragraphs 1 and 2 above of a type and in amounts as are generally established at similar hotels, but such amount shall not be less than payments on any indebtedness secured by the assets of the Hotel for less than 24 months;

4. General liability insurance against claims for bodily injury, death or property damage and personal injury occurring on, in, or about the Hotel, and automobile liability insurance on vehicles operated in conjunction with the Hotel, with a combined single limit for each occurrence of not less than One Million Dollars (\$1,000,000);

5. Workers' compensation as may be required under applicable laws covering all of the employees at the Hotel and employer's liability;

(a) Fidelity insurance, and money and securities insurance on a blanket basis covering Manager and all employees of Manager who have access to or are responsible for the handling of Owner's funds and tenant security deposits, in such amounts as Owner and Manager shall deem advisable but in no event less than \$500,000. All such policies shall specify that any loss involving funds of Owner shall be payable to Owner.

(b) Insurance providing coverage of the indemnification by Manager in Section 5.4 (c), in form and substance acceptable to Owner; and

6. Such other insurance as required by any mortgagee of the Hotel or under any license or franchise agreement or as Manager and Owner in their reasonable judgment deem advisable for protection against claims, liabilities and losses arising out of or connected with the operation of the Hotel.

B. Interests on Policies. All policies of insurance required under subsection A above shall be carried in the name of Owner, subject to the following terms and conditions:

1. All such policies of insurance shall be carried in the name of Owner, with Manager as an additional insured with a waiver of subrogation by the insurers in favor of the Manager and its directors, officers, shareholders, agents and employees. The Owner waives its right of subrogation against such parties for the amount of any deductible or retention under such policies. Any property losses thereunder shall be payable to the respective parties as their interests may appear. The Owner shall use its best efforts to have the documentation with respect to the Mortgage to contain provisions to the effect that proceeds of the insurance policies required to be carried under Section A.1, 2 and 3 shall be available for repair and restoration of the Hotel, to the extent required under the Agreement.

2. Owner shall deliver to Manager certificates of insurance with respect to all policies so procured and, in the case of insurance policies about to expire, shall deliver certificates with respect to the renewal thereof.

3. All such certificates of insurance shall state that the insurance shall not be canceled or materially changed without at least thirty (30) days' prior written notice to the certificate holder.

4. All insurance procured by Owner hereunder shall be obtained from reputable insurance companies licensed to do business in the State in which the Hotel is located and reasonably acceptable to Manager.

5. All proceeds of insurance carried under Section A. 1, 2, and 3 shall be paid to Owner. All other proceeds shall be paid to the parties as their interests may appear in the policies.