

LEASE AGREEMENT

THIS LEASE AGREEMENT (“Lease”) is made and entered into on the _____ day of _____, 2007, by and between THE CITY OF O’FALLON, ILLINOIS, an Illinois municipal corporation (“Landlord”), and D & D LODGING, LLC, an Illinois Limited Liability Company (“Tenant”).

RECITALS

WHEREAS, Landlord owns certain property and improvements consisting of land and a buildings (the “Leased Premises”) located in the County of St. Clair, State of Illinois, described in **Exhibit A**, attached hereto and made a part hereof (“Legal Description”) together with the improvements thereon; and

WHEREAS, Landlord desires to Lease the premises to the Tenant and the Tenant desires to Lease the premises from the Landlord; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and value consideration receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
LEASE, PREMISES AND RENT

1.1 Lease. In consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of Tenant to be observed and performed, Landlord hereby demises, leases and rents to Tenant, and Tenant leases from Landlord the Leased Premises commencing the commencement date. The Leased Premises are leased by Landlord to Tenant in its present as is condition.

1.2 Commencement Date. Commencement Date shall be the date the Landlord provides the Tenant with a certificate of completion or temporary occupancy permit as set forth in the parties Development Agreement for the construction of the convention center on the Leased Premises.

1.3 Rent. Tenant agrees to pay to Landlord at the office of Landlord, or at such other place designated by Landlord, during the term hereof without prior notice, annual rent in the amount of One Dollar (\$1.00) due and payable on the commencement date and on the same day of each year thereafter.

ARTICLE II
INITIAL AND OPTION TERMS

2.1 Initial Term. The initial term of this Lease shall be the period commencing with the commencement date and end twenty (20) years after the Commencement Date. Prior to the commencement of the initial term, Tenant shall have the right to enter upon and use the Leased Premises and the Property to install improvements and equipment therein to make the Leased Premises ready for Tenant’s full use and occupancy on the Commencement Date.

2.2 Option Term(s). Tenant shall have the right and option to extend the Lease upon the same terms and conditions set forth herein for four (4) additional terms of five (5) years each, provided Tenant gives Landlord written notice to exercise such option(s) at least one hundred eighty (180) days prior to the expiration of the current term and the Hampton Inn, or similar hotel of a like kind and quality is built. Notwithstanding the foregoing, in the event Tenant exercises the first five (5) year option term, Tenant shall not be permitted to exercise any subsequent five (5) year option term unless the annual total revenue for the Hilton Garden Inn hotel increases at least two (2%) percent per year in the option years immediately preceding the next applicable five (5) year option term. Subject however to force majeure events described in Section 18.7 which may adversely affect the annual total revenue, in which case Tenant shall be permitted to exercise the applicable extension option. For purposes of this section, annual total revenue equals revenue from all revenue sources contained within the Hilton Garden Inn hotel.

2.3 Cessation of Use. Unless such cessation of authorized usage shall be caused by remodeling, renovations or repairs to the Conference Center which are diligently pursued to completion, or circumstances described in Section 11.1 and/or Section 18.7, if the premises should cease to be used as authorized in Section 3.1 for a period of more than sixty (60) consecutive days, Landlord shall have the right to terminate this Lease by giving Tenant at least sixty (60) days prior written notice that Landlord elects to terminate the Lease. Tenant shall vacate and return the Leased Premises to Landlord by the end of the sixty (60) day notice period.

ARTICLE III USE OF THE LEASED PREMISES

3.1 Use of the Leased Premises. Tenant shall have the right under this Lease to use and occupy the entirety of the Leased Premises for the purpose of the operation of a conference center and any activities necessary to maintain, manage and promote a conference center. While the Tenant operates a conference center on the Leased Premises, the Tenant may conduct, off the leased premises, related activities in connection with servicing the conference center including but not limited to catering, cleaning, restaurant, security, supply and vending services.

3.2 Landlord's Usage of Premises. Other provisions of this Agreement notwithstanding, Landlord shall have the right to use of the Leased Premises, but only as follows:

The City shall be exempt from any room rental usage fees for the full use of the Leased Premises for a maximum of three (3) events per year, for an aggregate total of five (5) day(s) which shall include up to two (2) weekend days for City sponsored or City funded events. Such usage shall be based upon the availability of the Conference Center at the time the request or reservation is made by the City. This exemption shall continue until the expiration of this Lease. Weekend days shall mean Friday, Saturday and Sunday. However, the City shall be responsible for the cost of any and all food and beverage costs required by the City events.

3.3 Operation of Business. Tenant shall at Tenant's cost, except as herein otherwise provided, from and after the Commencement Date, (a) continuously occupy and use the entire Leased Premises for the uses herein specified and conduct Tenant's business therein in a

reputable manner; (b) keep and maintain the Leased Premises and Tenant's personal property and signs therein or thereon and the exterior and interior plate glass, parking lot and grounds in a neat, clean, sanitary and safe condition; (c) comply with all ordinances, laws and regulations of all governmental authorities having jurisdiction and apply for, secure, maintain and comply with all licenses or permits which may be required for the conduct by Tenant of the business herein permitted to be conducted in the Leased Premises and to pay, if, as and when all license and permit fees and charges of a similar nature in connection therewith; (d) to timely pay all operational costs in connection to the Lease Premises. **Landlord shall not be liable for any operational costs associated with the Leased Premises.**

3.4 Utilities. Tenant, at Tenant's expense, shall furnish, maintain, and provide all utilities and utility service of every kind serving the Premises.

3.5 Maintenance and Repair. Tenant shall be solely responsible for all maintenance, and repairs on the Leased Premises, to include the interior, and exterior of the building situated thereon, landscaping, lighting and parking lot. Tenant agrees to maintain the Leased Premises at all times in good order and repair in a safe and clean condition, and in accordance with all applicable laws and regulations. Tenant shall not permit any hazardous or toxic substances to be used, stored, or installed upon the Leased Premises except in the ordinary course of business, and Tenant agrees to comply with all applicable laws and regulations with respect to hazardous, toxic, or infectious materials and waste, and the use, handling, storage, transportation, removal, and disposal of same. Tenant agrees to establish and maintain a maintenance fund in an amount equal to two and a half (2.5%) percent of the gross annual revenues received from the Leased Premises for the purpose of making capital improvements and major repairs for such areas/items as building systems, roofing, heating and cooling systems, parking lots, and structural components. Tenant shall, by February 1 of each year, provide Landlord with a written statement evidencing the gross revenue for the previous year and at the same time provide Landlord with annual bank statements showing the deposit of such maintenance fund amounts. This fund shall not be used to pay for any routine, day to day operational or maintenance items. Tenant shall also be obligated to provide an inspection of the HVAC on a semi-annual basis, which may be payable from the maintenance fund. **Landlord shall not be liable for any operational, maintenance or repair costs associated with the Leased Premises.** Tenant shall not permit any liens to attach to the Leased Premises.

ARTICLE IV EXTERIOR DISPLAY

4.1 Signs. Tenant may erect, install or maintain any signs or other advertising or display devices, on the exterior of the Building which devices may be visible to public view outside the Leased Premises, subject to all relevant statutes, regulations and ordinances. Tenant shall at Tenant's own expense, maintain and keep in good repair all signs, advertising and display devices in or about the Building and shall pay for all electric current required in connection with any such advertising and display devices.

ARTICLE V
FIXTURES AND PERSONAL PROPERTY

5.1 Tenant to Fully Equip Leased Premises. Tenant shall, at its costs, equip the Leased Premises with all trade fixtures and equipment, furniture, furnishings and any other fixtures and equipment necessary for Tenant's use and occupancy of the Leased Premises.

5.2 Ownership and Right of Personal Property. Any personal property of Tenant, except attached fixtures installed by Tenant, shall remain the property of Tenant, and the Landlord agrees that Tenant shall have the right, and Tenant may, at any time, and from time to time, remove any and all of its personal property which Tenant may have stored or installed in the Leased Premises. All attached fixtures shall be the property of the Landlord. Tenant at its expense shall repair any damage occasioned to the Leased Premises by reason of the removal of any such personal property, and upon expiration or earlier termination of this Lease, shall leave the Leased Premises in a neat and clean condition, free of debris.

5.3 Ownership and Removal of Leasehold Improvements. All partitions and ceiling, wall, and floor coverings and finishes installed by Landlord in or about the Leased Premises shall be deemed the property of the Landlord upon installation.

ARTICLE VI
SPECIAL SERVICES TO BE PROVIDED BY TENANT

Tenant, at Tenant's sole expense, shall provide to the Leased Premises alarm systems, refuse collection and storage, and telephone as may be used in or to service the Leased Premises. Tenant agrees that all services Tenant shall provide and all business in the Leased Premises shall comply in all respects with all laws and regulations of the city of O'Fallon, the County of St. Clair, the State of Illinois, and the United States.

ARTICLE VII
ALTERATIONS

Tenant may, at Tenant's own expense, from time to time during the term of this Lease, make alterations, additions, changes and improvements in and to the exterior of the Leased Premises (except those of a structural nature) but only with Landlord's prior written consent which consent shall not unreasonably be withheld. All such work shall be done in a good and workmanlike manner, in accordance with all applicable laws and building regulations and shall be diligently prosecuted so that the Leased Premises shall at all times be complete except during the period of work.

ARTICLE VIII
MECHANIC'S LIENS

Tenant agrees that Tenant will pay or cause to be paid all costs for work done by Tenant or caused to be done by Tenant on the Leased Premises. Tenant shall not cause or permit any liens to be attached to the Leased Premises.

ARTICLE IX
TAXES

Tenant shall pay when due all real estate taxes, assessments and other governmental levies and charges of every kind and nature whatsoever, general and special, extraordinary as well as ordinary, which shall or may, during the term of this Lease, be levied, assessed, imposed, become due and payable, or arise in connection with the ownership, use, occupancy or possession of the Leased Premises or any part thereof or any improvements thereon. Notwithstanding the foregoing, Tenant shall, unless Tenant mutually approves, not be subject to any special assessments, special tax, extraordinary tax, or new tax, unless such tax is imposed city wide and applied equally to all taxpayers.

Tenant shall pay prior to delinquency, any and all taxes and assessments levied or assessed during the term hereof on or against (a) all furniture, fixtures, equipment and any other personal property installed or located within the Leased Premises and (b) all alterations, additions, betterments or improvements of whatsoever kind or nature, made by Tenant to the Leased Premises. Notwithstanding the foregoing, Tenant shall have the right to contest all taxes and Landlord shall cooperate with Tenant.

Landlord shall obtain Tenant's approval before applying for or renewing any real estate tax exemption relating to the Leased Premises.

ARTICLE X
INSURANCE-WAIVER OF SUBROGATION

10.1 Landlord's Insurance. Landlord covenants and agrees that from and after the date of delivery of the Leased Premises to Tenant, to obtain and maintain and carry at Tenant's expense and cost, the following types of insurance in the amounts specified and in the form hereinafter provided for:

(a) **PUBLIC LIABILITY AND PROPERTY DAMAGE.** Bodily injury liability insurance with a single limit of not less than Two Million Dollars (\$2,000,000.00) insuring against any and all liability of the insured with respect to injury or damage to person and property occurring on or about the use or occupancy thereof. All such liability insurance shall specifically include, in addition to the above, contractual liability insurance covering the insuring Provisions of this Lease.

(b) **FIRE AND EXTENDED COVERAGE INSURANCE.** Insurance covering the Building and Leased Premises, and Landlord's fixtures, furniture and other items of personal property for their full replacement cost from time to time during the term of this Lease providing protection against any peril included within the classification "Fire and Extended Coverage" together with insurance against sprinkler leakage, vandalism and malicious mischief.

All such policies shall further provide that they may not be cancelled except upon ten (10) days prior written notice to Tenant.

10.2 Waiver of Subrogation. Landlord and Tenant hereby agree, to the extent permitted by Illinois law, to waive any rights each may have against the other on account of any loss or damage occasioned to the Landlord or Tenant, as the case may be, their respective property, the Building or Leased Premises or their contents arising from any risk generally covered by fire and extended coverage insurance, vandalism, malicious mischief and sprinkler leakage; and the parties each, on behalf of their respective insurance companies insuring the property of either the Landlord or Tenant against any such loss, waive any right of subrogation that it might have against the Landlord or Tenant, as the case may be, if such waiver of subrogation is available.

10.3 Tenant's Insurance. Tenant further covenants and agrees that from and after the Commencement Date, Tenant shall carry and maintain, at Tenant's sole cost and expense, the following types of insurance, in the amounts specified and in the form hereinafter provided for:

(a) **PUBLIC LIABILITY AND PROPERTY DAMAGE.** Bodily injury liability insurance with a single limit of not less than Two Million Dollars (\$2,000,000.00) insuring against any and all liability of the insured with respect to injury or damage to person and property occurring on or about the use or occupancy thereof. All such liability insurance shall specifically include, in addition to the above, contractual liability insurance covering the insuring provisions of this Lease.

(b) **FIRE AND EXTENDED COVERAGE INSURANCE.** Insurance covering Tenant's leasehold improvements, and Tenant's trade fixtures, furniture and other items of personal property for their full replacement cost from time to time during the term of this Lease providing protection against any peril included within the classification "Fire and Extended Coverage" together with insurance against sprinkler leakage, vandalism and malicious mischief.

The policies of insurance required to be carried by Tenant under subparagraphs (a) and (b) above shall name both Landlord and Tenant as named insureds, and shall be submitted to Landlord for Landlord's approval which shall not be unreasonably withheld or delayed. All such policies shall further provide that they may not be cancelled except upon ten (10) days' prior written notice to Landlord.

(c) **WORKMAN'S COMPENSATION INSURANCE.** Tenant shall at all times during the term of this lease maintain Workman's Compensation Insurance in the maximum limits as provided by law.

10.4 Landlord's and Tenant's Blanket Policies. Landlord's and Tenant's obligations to carry the insurance provided for herein may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Landlord or Tenant. Landlord and Tenant agree to furnish to each other a copy of the policies of insurance covering the above-described risks or to furnish a certificate of insurance if part of a blanket policy.

ARTICLE XI
DAMAGE TO BUILDING ON LEASED PREMISES

11.1 Rights and Obligations of Landlord and Tenant. If the building, on the Leased Premises shall be partially damaged or destroyed by fire, the elements, unavoidable accident or other casualty, Tenant shall, except as otherwise provided herein, repair and restore the same substantially to the condition thereof immediately prior to such damage or destruction. If by reason of such occurrence: (a) the Leased Premises are rendered wholly untenable, or (b) the building on the Leased Premises is damaged to an extent of fifty percent (50%) or more of the then replacement value thereof, or in any of such events, Tenant may elect either to repair the damage as aforesaid, or to cancel this Lease by written notice of the cancellation given to Landlord within ninety (90) days after the date of such occurrence, and thereupon this Lease shall cease and terminate with the same force and effect as though the date set forth in the Tenant's notice were the date herein fixed for the expiration of the term hereof and Tenant shall within a reasonable period thereafter vacate and surrender the Leased Premises to Landlord. Upon the termination of this Lease, as aforesaid, Tenant's liability for the rents and other charges reserved hereunder shall cease as of the effective date of the termination of this Lease. Tenant hereby waives all claims against Landlord for any compensation or damage for loss of use of the whole or any part of the Leased Premises or for loss or damage to the Tenant's furniture, equipment, fixtures, or other personal property and/or for any inconvenience or annoyance occasioned by any such damage, destruction, repair or restoration. If the building on the Leased Premises shall be partially damaged or destroyed by fire, the elements, unavoidable accident, or casualty to an extent of less than fifty (50%) of the then replacement value thereof, then Tenant shall, within any reasonable period of time, rebuild and restore the Leased Premises to at least as good a condition as existed prior to such damage.

11.2 Termination. Upon any termination of the Lease under any of the provisions of this Article, the parties shall be released thereby without further obligations of the other party coincident with the surrender of possession of the Leased Premises to the Landlord, except for items which have theretofore accrued and be then unpaid.

ARTICLE XII
ASSIGNING, MORTGAGING, SUBLETTING, CHANGE IN OWNERSHIP

12.1 Transfer by Tenant, Requirements. Tenant shall have the right to assign this Lease to (i) a business entity in which Tenant or either of its members owns a majority interest or (ii) an approved franchisee or corporate operator under one of the following hotel chains: Hilton, Hampton, Marriott, Intercontinental Hotel Group and Starwood, or any successor to such hotel chains. Except as provided in (i) and (ii) above, Tenant shall not assign this Lease or sublet the Leased Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld. Any attempted assignment or subletting, without the Landlord's reasonable written consent shall be void and confer no rights upon any third person and Landlord may treat such third person as a trespasser.

12.2 Restrictions Concerning Consent to Transfer. Any consent by Landlord to any assignment, subletting, license or concession shall be upheld to apply only to the specific transaction thereby authorized and shall not constitute a waiver of the necessity for such consent

to any subsequent assignment, subletting, license or concession. If this Lease or any interest therein be assigned, or if the Leased Premises or any part thereof be sublet or occupied by anyone other than Tenant without the Landlord's prior written consent having been obtained thereto, Landlord may nevertheless collect rent from the assignee, sublessee or occupant and apply the net amount collected to the rents herein reserved; but no assignment, subletting, occupancy or collection shall be deemed a waiver of the covenant herein against assignment and subletting or the acceptance of the assignee, subtenant or occupant as Tenant hereunder, or constitute a release of Tenant from the further performance by Tenant of the terms and provisions of this Lease. Notwithstanding the foregoing, if this Lease or any interest of Tenant therein be assigned or if the whole or any part of the Leased Premises be sublet, after having obtained the Landlord's prior written consent thereto, Tenant shall be fully released from all obligations under this Lease and Landlord shall look to Tenant's assignee for performance of all Lease obligations from and after the date of such assignment.

12.3 Consent to Transfer To Be In Writing. Each transfer, assignment and subletting, to which there has been consent by an instrument in writing in form satisfactory to Landlord, shall be executed by the assignor, sublessor, assignee, sublessee, in each instance, as the case may be; and each assignee, sublessee shall agree in writing for the benefit of the Landlord herein to assume to be bound by, and to perform the terms, covenants and conditions of this Lease to be done, kept and performed by the Tenant. One executed copy of such written instrument shall be delivered to Landlord.

12.4 Subordination of Lease. Tenant agrees that this lease shall be subordinate to any first mortgage now or hereafter placed upon the Leased Premises and Tenant agrees to execute such documents as may be required by the mortgagee evidencing such subordination; provided, however, as a condition to such subordination, there shall be delivered to Tenant an agreement in writing, in form and substance satisfactory to Tenant, executed by said mortgagee providing, in effect that Tenant may remain in possession of the Lease Premises pursuant to terms of this Lease as long as Tenant continues to perform its obligations hereunder. Within fifteen (15) days after request therefore by Landlord, Tenant agrees to deliver in recordable form a certificate to any proposed mortgagee of the Leased Premises certifying the date of commencement of the term of this Lease and that this Lease is in full force and effect and that there are no defenses or offsets thereto. Tenant further agrees that at any time the Leased Premises are subject to a mortgage, hereunder, Tenant will give a copy of notice of a default on the part of the Landlord to the mortgagee and said mortgagee shall have the right (but no obligation) to cure or remedy such default during a period of thirty (30) days, and Tenant agrees to accept such curative or remedial action taken by said mortgagee with the same effect as if such action had been taken by Landlord.

ARTICLE XIII DEFAULT

13.1 General. An "Event of default" by Tenant shall occur if;

(1) Tenant shall default with respect to any obligation or covenant of Tenant under the Lease and such default shall continue for thirty (30) days after written notice of same shall have been sent to Tenant; provided that, with respect to default which is not reasonably

susceptible of cure within such period of thirty (30) days, an event of default shall not occur if within such period of thirty (30) days Tenant shall have commenced appropriate curative procedures and shall thereafter prosecute the same to completion without hiatus.

(2) Tenant shall default with respect to any obligation or covenant of Tenant, which creates a hazardous condition, and Tenant does not cure such default within the timeframe as set forth herein.

(3) The interest of Tenant in this lease shall be levied upon under execution or other legal process.

(4) Any voluntary petition in bankruptcy or for reorganization or any similar relief filed by Tenant.

(5) Any involuntary petition in bankruptcy or for reorganization or any similar relief filed against Tenant and shall not have been dismissed within sixty (60) days following the date of filing thereof.

(6) A receiver appointed for Tenant or any property of the Tenant by any court and such receiver shall not have been discharged within sixty (60) days from the date of appointment.

(7) The Tenant's making of a general assignment for the benefit of creditors.

(8) Tenant abandons the Leased Premises or vacates the Leased Premises for a period in excess of thirty (30) consecutive days.

(9) The Hilton Garden Inn is not operated by an approved franchisee or corporate operator under one of the following hotel chains: Hilton, Hampton, Marriott, Intercontinental Hotel Group and Starwood, or any successor to such hotel chains.

13.2 Relief. Upon occurrence of an event of default beyond any applicable notice or cure, Landlord in addition to any other remedy available to Landlord at law or equity may, with notice to Tenant, exercise the following remedies:

(a) Landlord may terminate this Lease in which event Landlord may immediately repossess the Leased Premises and be entitled to recover all damages and costs incurred by Landlord including costs of reletting the premises and reasonable attorney fees.

(b) No waiver of any default by Tenant shall be implied from any omission by Landlord to take any action on account of said default, if such default persists or shall be repeated and no express waiver shall affect any default other than the fault specified in the express waiver and then only for the time and to the extent therein stated.

13.3 Rights and Remedies Cumulative. The rights and remedies herein reserved by or granted to Landlord or Tenant are distinct, separate and cumulative, and the exercise of any one of them shall not be deemed to preclude, waive or prejudice Landlord's or Tenant's right to exercise any or all others.

13.4 Waiver of Defense Based on Merger. Tenant and Landlord hereby expressly waives any right to assert a defense based on merger and agrees that neither the commencement of any action or proceeding, nor the settlement thereof, nor the entry of judgment therein shall bar Tenant and Landlord from bringing any subsequent actions or proceedings from time to time.

13.5 Self-Help. In the event either party breaches its obligations hereunder and such breach remains uncured for thirty (30) days after receipt of written notice specifying such breach, then the non-breaching party shall have the right to cure such breach and to collect the amounts expended in curing such breach from the breaching party, unless the breaching party is diligently pursuing the cure to such breach and such breach is a breach that can not be cured within a thirty (30) day period.

ARTICLE XIV ACCESS BY LANDLORD

14.1 Right of Entry. Landlord and Landlord's agents shall have the right to enter the Leased Premises at reasonable times during Tenant's business hours upon reasonable notice to Tenant (except in the case of an emergency in which event Landlord may enter at any time without notice), to examine the same, and to show them to prospective purchasers or tenants, and to make such repairs and alterations to the Leased Premises and the building, as Landlord may deem necessary.

ARTICLE XV SURRENDER OF PREMISES

Upon the expiration or sooner termination of the term of this Lease, Tenant shall quit and surrender the Leased Premises, in good condition and repair, reasonable wear and tear expected, together with all keys and combination to locks, all improvements, alterations, and additions all of which shall thereupon become the property of Landlord without any claims by Tenant therefore; but the surrender of such property to Landlord shall not be deemed to be a payment of rent or in lieu of any rent reserved hereunder. Before surrendering the Leased Premises, Tenant shall remove all of Tenant's said personal property and unattached movable trade fixtures, furnishings and equipment.

ARTICLE XVI QUIET ENJOYMENT

Upon payment by the Tenant of the rents herein provided, and upon the observation and performance of all the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly occupy, use, hold and enjoy the Property, Building and Leased Premises for the term hereby demised without hindrance or interruption by Landlord or any other person or persons lawfully or equitably claiming by, through or under the Landlord, subject to the terms and conditions of this Lease; and to all easements and restrictions.

ARTICLE XVII SUCCESSORS

17.1 Binding Effect of Lease. All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs,

executors, administrators, successors, and assigns of the said parties. No rights, however shall inure to the benefit of any assignee of Tenant unless the assignment has been approved by Landlord in writing.

ARTICLE XVIII
MISCELLANEOUS

18.1 Controlling Law. The laws of the State of Illinois shall govern the validity, performance and enforcement of this Lease.

18.2 Waiver. The waiver by Landlord of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular rental so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent. No covenant, term or condition of this Lease shall be deemed to have been waived by Landlord, unless such waiver is in writing by Landlord.

18.3 Accord and Satisfaction. No payment by Tenant or receipt by Landlord of a lesser amount than the rent herein stipulated shall be deemed to be other than on account of the earliest stipulated rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy provided in this Lease.

18.4 Entire Agreement. This Lease and the Exhibits attached hereto and forming a part hereof, set forth all the covenants and premises, agreements, conditions and understandings between Landlord and Tenant concerning the Leased Premises and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than are herein set forth. Except as herein provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon the Landlord or Tenant unless reduced to writing and signed by them.

18.5 Holding over. Any holding over after the expiration of the term hereof, with the consent of the Landlord, shall be construed to be a tenancy from month to month on the terms and conditions herein specified.

18.6 Relationship of Parties. Nothing contained in this Lease shall be deemed to constitute or be construed to create the relationship of principal and agent, partnership, joint ventures or any other relationship between the parties hereto, other than the relationship of Landlord and Tenant.

18.7 Force Majeure.

In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, shortages of materials or supplies, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, national crisis, terrorist attack, war or other reason of a like nature not the fault of the party and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. In addition to the foregoing force majeure events, for purposes of determining Tenant's right to exercise the Option Terms described in section 2.2, in the event the total annual revenue does not increase as required in section 2.2 Tenant shall continue to have the right to exercise such Options if there is a downturn in the local or national economy (i.e. base closure, national recession) or any event of a like nature not the fault of Tenant, including a local hotel supply/demand change due to new hotel construction in the market area, at or near the beginning of, or during the Option Terms, causing the total annual revenue increases to be less than 2%.

18.8 Notices. Any notice, demand, request or other instrument which may be or is required to be given under this Lease shall be delivered in person or sent by first class United States certified mail, postage prepaid, and shall be addressed as set forth in **Exhibit B** attached hereto, or such other address as such party shall designate by written notice to the others. Proof of any such notice so addressed with postage prepaid shall be by the addressee "green card" used for certified mail duly signed and returned to the sender.

18.9 Captions and Section Numbers. The captions, section numbers, article numbers and index appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such sections or articles nor in any way affect this Lease.

18.10 Partial Invalidity. It is agreed that if any provision of this Lease shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Lease and all such other provisions shall remain in full force and effect; and it is the intention of the parties hereto that if any provisions of this Lease is capable of two constructions, one of which would render the provision valid, then the provision shall have the meaning which renders it valid.

18.11 No Option. The submission of this Lease for examination does not constitute a reservation of or option for the Leased Premises and this Lease becomes effective as a Lease only upon the execution and delivery thereof by Landlord and Tenant.

18.12 Brokers. Tenant warrants and represents that Tenant has not directly or indirectly dealt with any broker or agent with respect to this Lease or had its attention called to the Leased Premises by any broker or agent, or dealt with any broker or agent with respect to any negotiations between Landlord and Tenant with respect to this Lease to the Leased Premises.

18.13 Recording. Tenant shall not record this Lease without the written consent of Landlord; however, upon the request of either party hereto the other party shall join in the

execution of a memorandum or so-called "short form" of this Lease for the purpose of recordation. Said memorandum or short form of this Lease shall describe the parties, the Leased Premises and the term of this Lease and shall incorporate this Lease by reference.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

LANDLORD:
CITY OF O'FALLON

(SEAL)

By: _____
Mayor

Attest: _____
City Clerk

TENANT:
D & D LODGING, LLC

By: _____
DARRELL G. SHELTON, MEMBER

By: _____
DARWIN M. MILES, MEMBER

EXHIBIT A

DESCRIPTION OF LEASED PREMISES

**PROPERTY DESCRIPTION FOR
PROPOSED LOT 12B**

ALL OF LOT 12B OF THE PROPOSED “ THE SHOPPES AT GREEN MOUNT, 1ST AMENDMENT AND THE NORTH ADJACENT 7.79 ACRES”, AND BEING A PART OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 2 NORTH RANGE 8 WEST OF THE THIRD PRINCIPAL MERIDIAN, ST. CLAIR COUNTY, ILLINOIS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 12 OF “THE SHOPPES AT GREEN MOUNT, REFERENCE BEING HAD TO THE PLAT THEREOF RECORDED IN DOCUMENT NUMBER A01916664 OF THE ST. CLAIR COUNTY LAND RECORDS, THENCE NORTH 89 DEGREES 54 MINUTES 11 SECONDS WEST ALONG THE NORTH LINE OF REGENCY (60.00 FEET WIDE) PARK FOR A DISTANCE OF 223.69 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT; THENCE CONTINUING ALONG SAID NORTH LINE OF REGENCY PARK, NORTH 89 DEGREES 54 MINUTES 11 SECONDS WEST FOR A DISTANCE OF 325.52 FEET; THENCE NORTHWESTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 270.00 FEET AN ARC LENGTH OF 164.78 FEET; THENCE LEAVING SAID NORTH LINE OF REGENCY PARK, NORTH 34 DEGREES 43 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 53.00 FEET; THENCE NORTH 51 DEGREES 50 MINUTES 51 SECONDS WEST FOR A DISTANCE OF 18.87 FEET; THENCE NORTH 00 DEGREES 05 MINUTES 49 SECONDS EAST FOR A DISTANCE OF 271.49 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 11 SECONDS EAST FOR A DISTANCE OF 98.44 FEET; THENCE NORTH 00 DEGREES 05 MINUTES 49 SECONDS EAST FOR A DISTANCE OF 246.78 FEET TO THE NORTH LINE OF SAID LOT 12; THENCE SOUTH 89 DEGREES 30 MINUTES 43 SECONDS EAST ALONG SAID NORTH LINE FOR A DISTANCE OF 258.14 FEET; THENCE LEAVING SAID NORTH LINE, SOUTH 00 DEGREES 05 MINUTES 49 SECONDS WEST FOR A DISTANCE OF 245.01 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 11 SECONDS EAST FOR A DISTANCE OF 46.43 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 49 SECONDS WEST FOR A DISTANCE OF 186.40 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 11 SECONDS EAST FOR A DISTANCE OF 62.00 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 49 SECONDS WEST FOR A DISTANCE OF 189.07 FEET TO THE POINT OF BEGINNING AND CONTAINING 5.16 ACRES MORE OR LESS.

EXHIBIT B

ADDRESSES FOR NOTICE

LANDLORD

City Clerk
CITY OF O'FALLON
City Hall, 255 South Lincoln
O'Fallon, IL 62269

with a copy to:

Dale Funk
Attorney at Law
807 West Highway 50
O'Fallon, IL 62269

TENANT

D & D LODGING, LLC
1331 Central Park Drive
Suite #5
O'Fallon, IL 62269

with a copy to:

Linda Kniepkamp
Greensfelder, Hemker & Gale
12 Wolf Creek
Suite # 100
Swansea, IL 62226