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Attorneys for Plaintiff, Hawthorn Suites Franchising, Inc.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

HAWTHORN SUITES FRANCHISING,
INC., a Georgia Corporation,

Plaintiff,

v.

AJAM, INC., a Nebraska limited liability
company; UPAMANYU RAVAL, an
individual; NEHA RAVAL, an individual;
PARIMAL SHAH, an individual; and
KALPANA SHAH (also known as
KALPENA SHAH), an individual,

Defendants.

:

:

: Civil Action No. 13-

:

COMPLAINT

:

:

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:

Plaintiff Hawthorn Suites Franchising, Inc., by its attorneys, Clyde & Co US LLP,
complaining of defendants Ajam, Inc., Upamanyu Raval, Neha Raval, Parimal Shah and Kalpana
Shah (also known as Kalpena Shah) says:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Hawthorn Suites Franchising, Inc. ("HSF") is a corporation
organized and existing under the laws of the State of Georgia, with its principal place of business
in Parsippany, New Jersey.

2. Defendant Ajam, Inc. (“Ajam”), on information and belief, is a corporation organized and existing under the laws of the State of California, with its principal place of business at 23046 Avenida De La Carlota, Laguna Hills, California 92653.

3. Defendant Upamanyu Raval, on information and belief, is a principal of Ajam and a citizen of the State of California, having an address at 32 Deerborn Drive, Aliso Viejo, California 92656.

4. Defendant Neha Raval, on information and belief, is a principal of Ajam and a citizen of the State of California, having an address at 32 Deerborn Drive, Aliso Viejo, California 92656.

5. Defendant Parimal Shah, on information and belief, is a principal of Ajam and a citizen of the State of California, having an address at 12510 Yosemite Street, Cerritos, California 90703.

6. Defendant Kalpana Shah (also known as Kalpena Shah) (“Kalpena Shah”), on information and belief, is a principal of Ajam and a citizen of the State of California, having an address at 12510 Yosemite Street, Cerritos, California 90703.

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 inasmuch as the plaintiff and all the defendants are citizens of different states and the amount in controversy in this matter, exclusive of interest and costs, exceeds the sum of \$75,000.

8. This Court has personal jurisdiction over Ajam by virtue of, among other things, section 13(M) of the May 30, 2008 license agreement by and between Ajam and HSF (the “License Agreement”), described in more detail below, pursuant to which Ajam consented to be subject to the jurisdiction “in the state or federal court of general jurisdiction closest to [HSF's] then-current principal business address.”

9. This Court has personal jurisdiction over Upamanyu Raval, Neha Raval, Parimal Shah and Kalpena Shah by virtue of, among other things, the terms of a guaranty, described in more detail below, pursuant to which Upamanyu Raval, Neha Raval, Parimal Shah and Kalpena Shah acknowledged that they were personally bound by section 13(M) of the License Agreement.

10. Venue is proper in this District pursuant to section 13(M) of the License Agreement, inasmuch as that provision contains an express waiver by Ajam of any objection to venue “in the state or federal court of general jurisdiction closest to [HSF's] then-current principal business address.”

ALLEGATIONS COMMON TO ALL COUNTS

The Agreements Between The Parties

11. On or about May 30, 2008, HSF entered into the License Agreement with Ajam for the operation of an 96-room guest lodging facility located at 6101 Trust Drive, Holland, Ohio 43528, Site No. 30900-80535-01 (the “Hotel”). A true copy of the License Agreement is attached hereto as Exhibit A.

12. Pursuant to section 10(A) of the License Agreement, Ajam was obligated to operate a Hawthorn® guest lodging facility for a twenty-year term.

13. Pursuant to sections 3(D) and 14(B) of the License Agreement, Ajam was required to make certain periodic payments to HSF for royalties, marketing/reservation contributions, global distribution systems fees, taxes, interest, and other fees (collectively, “Recurring Fees”).

14. Pursuant to section 3(D)(6) of the License Agreement, Ajam agreed that interest is payable on overdue amounts “from the due date until paid in full at the lesser rate of one and one-half percent (1.5%) per month or the maximum rate permitted by law.”

15. Pursuant to section 6(A) of the License Agreement, Ajam was required to prepare and submit monthly reports to HSF disclosing, among other things, the amount of gross room revenue earned by Ajam at the Hotel in the preceding month for purposes of establishing the amount of royalties and other Recurring Fees due to HSF.

16. Pursuant to section 6(B) of the License Agreement, Ajam agreed to maintain at the Hotel accurate financial information, including books, records, and accounts, relating to the gross room revenue of the Hotel and, pursuant to section 6(C) of the License Agreement, Ajam agreed to allow HSF to examine, audit, and make copies of the entries in these books, records, and accounts.

17. Pursuant to section 8(B) of the License Agreement, Ajam could not lease the Facility, nor engage in any change, assignment, transfer, conveyance, or pledge of its interest, except with HSF’s prior written consent. Any attempted transfer, assignment, conveyance, or

pledge not in accordance with section 8 of the License Agreement would be void as between HSF and Ajam, and would give HSF the right to terminate the License Agreement.

18. Pursuant to sections 10(E) and 13(J) of the License Agreement, Ajam agreed that if HSF incurs any costs, expenses, and/or attorneys' fees to enforce any of Ajam's obligations under the License Agreement, then Ajam shall reimburse HSF for all of HSF's costs, expenses, and attorneys' fees.

19. Effective as of the date of the License Agreement, Upamanyu Raval, Neha Raval, Parimal Shah and Kalpena Shah provided HSF with a Guaranty of Ajam's obligations under the License Agreement ("Guaranty"). A true copy of the Guaranty is attached hereto as Exhibit B.

20. Pursuant to the terms of the Guaranty, Upamanyu Raval, Neha Raval, Parimal Shah and Kalpena Shah agreed, among other things, that upon a default under the License Agreement, they would "jointly and severally agree to be personally bound by each and every covenant, term, condition, agreement and undertaking (including, without limitation, the timely payment and performance of all of [Ajam's] obligations under the License Agreement)."

21. Pursuant to the terms of the Guaranty, Upamanyu Raval, Neha Raval, Parimal Shah and Kalpena Shah agreed to pay the costs, including reasonable attorneys' fees, incurred by HSF in enforcing its rights or remedies under the Guaranty or the License Agreement.

The Termination of the License Agreement

22. On or about April 20, 2011, Ajam lost possession of the Hotel to a third party.

23. Prior to losing possession of the Hotel, Ajam failed to pay outstanding Recurring Fees to HSF pursuant to the License Agreement.

24. Since losing possession of the Facility, Ajam has failed to pay outstanding Recurring fees due to HSF pursuant to the License Agreement.

FIRST COUNT

25. HSF repeats and makes a part hereof each and every allegation contained in paragraphs 1 through 24 of the Complaint.

26. Pursuant to section 6(C) of the License Agreement, Ajam agreed to allow HSF to examine, audit, and make copies of Ajam's financial information, including books, records, and accounts, relating to the gross room revenue earned at the Hotel.

27. The calculation of the monetary amounts sought by HSF in this action is based on the gross room revenue information supplied to HSF by Ajam and, to the extent there has been non-reporting, HSF's estimate as to the gross room revenue earned by Ajam.

28. The accuracy of this estimate cannot be ascertained without an accounting of the receipts and disbursements, profit and loss statements, and other financial materials, statements and books from Ajam.

WHEREFORE, HSF demands judgment ordering that Ajam account to HSF for any and all revenue derived as a result of marketing, promoting, or selling guest lodging services at the Hotel from the inception through the date of termination of the License Agreement.

SECOND COUNT

29. HSF repeats and makes a part hereof each and every allegation contained in paragraphs 1 through 28 of the Complaint.

30. Pursuant to section 3(D) and 14(B) of the License Agreement, Ajam was obligated to remit Recurring Fees to HSF.

31. Despite its obligation to do so, Ajam failed to remit certain of the Recurring Fees due and owing under the License Agreement in the current amount of \$137,168.98.

32. Ajam's failure to remit the agreed Recurring Fees constitutes a breach of the License Agreement and has damaged HSF.

WHEREFORE, HSF demands judgment against Ajam for the Recurring Fees due and owing under the License Agreement, in the current amount of \$137,168.98, together with interest, attorneys' fees, and costs of suit.

THIRD COUNT

33. HSF repeats and makes a part hereof each and every allegation contained in paragraphs 1 through 32 of the Complaint.

34. At the time of the termination of the License Agreement, Ajam was obligated to pay HSF Recurring Fees.

35. Despite its obligation to do so, Ajam failed to pay certain of the Recurring Fees due and owing under the License Agreement in the current amount of \$137,168.98.

36. Ajam's failure to compensate HSF constitutes unjust enrichment and has damaged HSF.

WHEREFORE, HSF demands judgment against Ajam for the Recurring Fees due and owing under the License Agreement, in the current amount of \$137,168.98, together with interest, attorneys' fees, and costs of suit.

FOURTH COUNT

37. HSF repeats and makes a part hereof each and every allegation contained in paragraphs 1 through 36 of the Complaint.

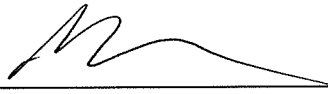
38. Pursuant to the terms of the Guaranty, Upamanyu Raval, Neha Raval, Parimal Shah and Kalpena Shah agreed, among other things, that upon a default under the License Agreement, they would immediately make each payment and perform each obligation required of Ajam under the License Agreement.

39. Despite their obligation to do so, Upamanyu Raval, Neha Raval, Parimal Shah and Kalpena Shah have failed to make any payments or perform or cause Ajam to perform each obligation required under the License Agreement.

40. Pursuant to the Guaranty, Upamanyu Raval, Neha Raval, Parimal Shah and Kalpena Shah are liable to HSF for Ajam's Recurring Fees due and owing under the License Agreement in the current amount of \$137,168.98.

WHEREFORE, HSF demands judgment against Upamanyu Raval, Neha Raval, Parimal Shah and Kalpena Shah for damages in the amount of Recurring Fees due and owing under the License Agreement, together with interest, attorneys' fees, and costs of suit.

CLYDE & CO US LLP
Attorneys for Plaintiff,
Hawthorn Suites Franchising, Inc.

By: 
BRYAN P. COUCH

Dated: 9/12/13

CERTIFICATION PURSUANT TO L. CIV. R. 11.2

I certify that, to the best of my knowledge, this matter is not the subject of any other action pending in any court or of any pending arbitration or administrative proceeding.

CLYDE & CO US LLP
Attorneys for Plaintiff,
Hawthorn Suites Franchising, Inc.

By: 
BRYAN P. COUCH

Dated: 9/12/13

EXHIBIT A

Location: 6101 Trust Drive
Holland, OH 43528

ID Number: 4910

Date: May 30, 2008

LICENSE AGREEMENT

between

HAWTHORN SUITES FRANCHISING, INC.

and

AJAM, INC.

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GUARANTY

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STATE-SPECIFIC AMENDMENTS

LICENSE AGREEMENT

This license agreement ("Agreement" or "License Agreement"), dated May 30, 2008, is entered into by and between Hawthorn Suites Franchising, Inc., a Georgia corporation having an address at 13 Corporate Square, Suite 250, Atlanta, Georgia 30329 ("we," "our," "us," "HFI" or "Licensor"), and AJAM, INC., a California corporation having an address at 23046 Avenida De La Carlota, Laguna Hills, CA 92653 ("you," "your" or "Licensee"). In consideration of the following mutual promises, the parties agree as follows:

1. *The License.*

We have the exclusive right to license a unique concept and system (the "Hotel System") to establish and operate hotels under the name "Hawthorn" and certain brand extensions thereof (collectively, "Hotels" or "Hawthorn Hotels"). Before signing this Agreement, you have read our disclosure document for prospective franchisees ("FDD") and independently evaluated and investigated the risks of investing in the hotel industry generally and purchasing a Hawthorn franchise specifically, including such factors as current and potential market conditions, owning a franchise and various competitive factors. Following your investigation, and recognizing the benefits to be derived from being identified with the Hotel System, you wish to enter into this Agreement to obtain a license to use the Hotel System to operate a Hawthorn Suites hotel located at 6101 Trust Drive, Holland, OH 43528 (the "Hotel").

A. The Hotel. The Hotel includes all structures, facilities, appurtenances, furniture, fixtures, equipment, entry, exit and parking areas located on the real property identified on Attachment A hereto or any other real property we approve for Hotel expansion, signage or other facilities. You agree not to make any material changes to the Hotel without our prior written consent, which consent will not be unreasonably withheld, including, but not limited to, any change in the number of rooms or suites at or to be constructed as part of the Hotel ("Guest Rooms").

B. The Hotel System. We have designed the Hotel System so that the public associates the Hotels with high quality standards. The Hotel System now includes, without limitation: (i) the trade names, trademarks, service marks "Hawthorn Suites," "Hawthorn Inn & Suites," "Hawthorn Hotel & Suites," and "Hawthorn Suites Golf Resort," and such other trade names, trademarks, service marks, collective and certification marks, logos, slogans, trade dress, domain names, and all other designations of source and origin, and all derivatives of the foregoing, that we designate and develop for use in connection with the Hotel System (collectively, the "Proprietary Marks"); (ii) all copyrightable materials developed in connection with our business, including the Manual (as defined below), videotapes, marketing materials (including all advertising and promotional materials), architectural drawings (including all architectural plans, designs and layouts, including, without limitation, site, floor, plumbing, lobby, electrical and landscape plans), building designs, and business and marketing plans, whether or not registered with the U.S. Copyright Office ("Copyrighted Materials"); (iii) all materials of any kind and other information that are designated "Confidential" orally or in writing or which, under the circumstances surrounding disclosure, ought to be treated as confidential, including without limitation, all operations information, confidential manuals, revenue information, plans, specifications, procedures, business plans, and marketing plans (collectively, "Confidential Information"); (iv) a national toll free number for the central reservation system, as renovated or otherwise changed by us from time to time ("CRS"); (v) the national directory of Hawthorn Hotels (the "National Directory"); (vi) management, personnel and operational training programs, materials and procedures; (vii) standards and specifications for operations, marketing, construction, equipment and furnishings described in our confidential manuals, as amended by us from time to time (collectively, the "Manual"); and (viii) marketing, advertising and

promotional programs. We may modify, alter or otherwise change the Hotel System or any aspect of it, from time to time as we deem appropriate.

2. *Grant of License.*

Commencing on the date of this Agreement, and continuing during the term as provided in Paragraph 10 (the "License Term"), we hereby grant to you a non-exclusive license (the "License") to use the Hotel System to build or convert and operate the Hotel in accordance with the terms of this Agreement. During the License Term, neither we nor any of our affiliates will authorize to open any Hawthorn Hotels other than the Hotel within the area described in Attachment B (the "Territory"). The Proprietary Marks include certain brand extensions. Attachment A to this Agreement designates the brand extension that you will use in connection with operating the Hotel. The brand extensions are subject to all the terms of this Agreement related to the Proprietary Marks. This Agreement does not limit our right, or the rights of our parent, subsidiaries or affiliates: (i) to use or license others to use any part of the Hotel System outside the Territory; (ii) to conduct other business activities under, or license others to use, hospitality brands that are not part of the Proprietary Marks, whether outside or within the Territory, even if the other brands or business activities compete with the Hotel and/or the Hotel System; or (iii) to use, or license others to use, the Hotel System and Proprietary Marks within the Territory to operate a Hotel within the area previously licensed to another Hawthorn licensee. There are no territorial rights between the parties except as specifically set forth in this Agreement. You acknowledge that our affiliates operate other franchise systems using different brand names and trademarks and service marks, some of which may operate and have facilities in the Territory. Your right to operate the Hotel in the Territory will cease upon termination or expiration of this License Agreement. You have no right to open the Hotel for business under the Hotel System unless we authorize you to do so. We reserve all rights not specifically granted to you herein.

3. *Your Responsibilities.*

A. Operational and Other Requirements. During the License Term, you agree to:

- (1) maintain the Hotel in first class condition and in a clean, safe and orderly manner;
- (2) provide efficient, courteous, competent, prompt and high-quality service to the public while maintaining a high moral and ethical standard and atmosphere at the Hotel;
- (3) operate the Hotel twenty-four (24) hours a day, every day, use the Hotel premises solely for the operation of the business licensed hereunder and in strict conformity with the Manual;
- (4) strictly comply in all respects with our requirements concerning:
 - (a) the Hotel System, the Manual and all other policies and procedures we communicate to you;
 - (b) our quality standards and the types of services, products and amenities you may use, promote or offer at the Hotel;

- (c) your use of the Proprietary Marks and display, style and type of signage, as outlined in this Agreement, the Manual and other written directives issued by us;
 - (d) directory and reservation service listings of the Hotel; and
 - (e) your participation in all of our marketing, reservation service, advertising, cooperative advertising, guest frequency program, Internet, computer, training and operating programs, including a property management system that interfaces with the CRS or any other central reservation system we adopt. We may establish and/or coordinate such programs with third-parties designated by us. You acknowledge and agree that we shall have the right, without prior notice to you, to access your computer systems including without limitation, the property management system, and all data and information that you may have processed or stored with, through or otherwise in connection with such computer systems;
- (5) execute our then-current software license agreement for the CRS or central reservation system and pay any applicable software license fee and participate in, connect with and use the CRS and to bear all costs and expenses related thereto. You agree that you may not use any other central reservation system without our prior written consent;
 - (6) except as provided in Paragraph 4E, adopt all changes we make to the Hotel System;
 - (7) strictly comply with all governmental requirements necessary for the full and proper conduct of the business licensed hereunder, including: (i) the payment of taxes; (ii) the filing and maintenance of trade or fictitious name registrations; and (iii) the filing and maintenance of all licenses and permits to operate the Hotel;
 - (8) permit our representatives to inspect the Hotel at any time and provide them free lodging during the inspection period;
 - (9) not use the Hotel or the Hotel System to promote a competing business or other lodging facility;
 - (10) use your best efforts to create a favorable response to the Hotel System, Proprietary Marks including the brand extensions for the Hotel System;
 - (11) promptly pay to us and/or our parent, subsidiaries and affiliates when due all royalties and fees owed under this Agreement;
 - (12) use your best efforts to treat as confidential and proprietary the Manual and any other Confidential Information and (i) use such material only in the operation of the Hotel, (ii) not duplicate, circulate, distribute, reproduce, copy or exhibit any portion of the Manual or Confidential Information, and (iii) not divulge any Confidential Information to any person other than your employees who have a need to know the Confidential Information for the purpose of operating the Hotel;

- (13) use best efforts to require each employee who will have access to any Confidential Information to keep the Confidential Information confidential. At our request, you must obtain a written agreement from your officers, directors, employees, beneficial interest holders of five percent (5%) or more, partners, members and managers, as the case may be, agreeing to the restrictions in this Agreement regarding the Confidential Information;
- (14) conduct your advertising in a dignified manner. You agree to submit to us for our prior approval all advertising and promotional plans and materials and public relations programs that you desire to use, including, without limitation, any materials in digital, electronic or computerized form, or in any form of media now or thereafter developed (e.g., materials to be made available through a computer or telecommunications network such as the Internet). You must discontinue use of any advertising and promotional materials upon receipt of written notice from us;
- (15) continually, but not less than every six (6) months, provide us with current information regarding the name, address, and telephone number of the financial institution (the "Lender"), if any, that provided you with the financing that enabled you to purchase the Hotel and the name and telephone number of your contact at the Lender;
- (16) notify us in writing, within ten (10) days of your receipt, of information or documentation about any lawsuit, action, proceeding, or the issuance of any injunction, award or decree of any court, quasi-judicial body, or governmental agency, that may adversely affect the Hotel, your ability to perform hereunder or your financial condition;
- (17) notify us in writing within ten (10) days of each time you list the Hotel for sale and promptly provide us with all information we reasonably request with respect to any such proposed sale;
- (18) upon our request, provide us with the names of customers or guests at the Hotel and provide us access to your sales and customer database. We may use this information for any purpose we deem appropriate to benefit the Hotel System and/or our customers;
- (19) obtain our permission prior to creating a website promoting your Hotel and, at a minimum, comply with website policies and procedures in the Manual;
- (20) comply with all standards, policies and procedures set forth in the Manual concerning guest relations and guest complaints;
- (21) purchase or lease and install at the Hotel all fixtures, equipment, furnishings, furniture, a telephone system, facsimile machine, copier, signs, computer terminals and hardware and related equipment for the property management system, CRS, and GDS (defined below), and all other items ("FF&E") specified by us for the Hotel System. You shall refrain from installing or permitting to be installed at the Hotel, without our prior written consent, any FF&E or any other items not previously approved by us. You shall use only such FF&E, supplies and other goods and services at the Hotel that conform to our standards and

specifications. We may specify for the Hotel System a particular model or brand of FF&E that may be available from only one manufacturer or supplier. We may, in our discretion, specify that certain FF&E, communication systems, supplies and other goods and services be purchased only from us or sources designated or approved by us. If you wish to obtain any FF&E, supplies or other goods and services for which we have established a standard or specification from a source that we have not previously approved as meeting our standards and specifications, you shall submit a written request to us and provide such other information and samples as are necessary for us to determine whether the item and source meet our then-current criteria. If you comply with our processes and procedures regarding approval of alternate or additional manufacturers or suppliers, we shall respond to such request within a reasonable period of time. You shall not purchase any FF&E and other capital items for the Hotel unless such purchase is from a source designated as approved by us or unless we have approved in writing that the item proposed by you meets our standards and specifications. We may modify our standards and specifications in our sole discretion. We reserve the right, at our option, to revoke our approval as to future purchases if the source or the item fails to continue to meet our standards and specifications;

- (22) upon our request, provide us with then-current copies of the documents evidencing your ownership of, or right to possess, the Hotel and/or the real property upon which the Hotel is located, and a complete and accurate list of all of your owners and their beneficial ownership interests; and
- (23) after submitting a copy of the recorded deed, executed lease agreement or other documentary evidence indicating you have fee simple title or a leasehold agreement relative to the Hotel site ("Site Documentation") as required by the Work (defined below), you must maintain control of the Hotel site consistent with such Site Documentation during the term.

B. Performance of the Work. As a primary inducement for us to enter into this Agreement, you agree to perform the work listed on Attachment C (the "Work") in strict accordance with our specifications and within the timeframes in the development schedule.

C. Upgrading of the Hotel. If at any time the Hotel falls below the quality standards set forth in the Manual, we may require you to upgrade or renovate the Hotel to reach acceptable standards including, without limitation, conforming the Hotel to then-current building décor and appearance and trade dress. Your failure to upgrade or renovate the Hotel promptly after we notify you to do so may result in our issuing a quality default notice which could lead to our terminating this Agreement.

D. Fees.

- (1) All fees you paid to us either prior to or simultaneously with the execution of this Agreement are non-refundable.
- (2) When you execute this Agreement, you will pay us an application fee of **\$20,000.00 (the "Application Fee")**. The Application Fee is fully earned and non-refundable upon the execution of this Agreement by both parties. All monies pertaining to this Agreement that have been paid to us by you prior to the

execution of this Agreement as partial payment of the Application Fee, if any, will be credited to the Application Fee.

- (3) For each month (or part of a month) during the License Term, beginning with the date the Hotel is authorized by us to open for business (the "Opening Date"), you shall pay to us by the tenth (10th) day of the following month:
 - (a) "Royalty Fee" equal to five percent (5%) of Gross Room Revenues (as defined in Paragraph 3D(5)) of the Hotel;
 - (b) a "Marketing/Reservation Contribution" ("Contribution") equal to two and one-half percent (2.5%) of Gross Room Revenues of the Hotel from the Opening Date until the expiration or sooner termination of this Agreement. We may, at any time, increase your Contribution only if: (i) we simultaneously impose a similar increase on all other Hawthorn Hotel licensees whose license agreements contain fee provisions similar to this Paragraph 3D and (ii) at least sixty-six percent (66%) of the open Hawthorn Hotels (one vote per open Hotel) agree to such an increase. "Open Hawthorn Hotel" is further described in Paragraph 4E below; and
 - (c) any sales, gross receipts, franchise, personal property, or similar tax imposed on us and calculated solely on any payment required under this Agreement, unless the tax is an optional alternative to an income tax otherwise payable by us.
- (4) You shall pay all fees for global distribution systems ("GDS") connected to our CRS and pay applicable commissions to travel agents. You agree to pay on a timely basis: (i) all commissions and fees for reservations you accept through any sources (including the Internet), whether processed through us, our CRS, third party reservation systems, or billed directly to you including, without limitation, a monthly processing fee of \$50.00 in connection with maintaining and supporting the listing of your Hotel in the GDS; (ii) all cooperative advertising program contributions; (iii) telephone charges and equipment related to the CRS; and (iv) all fees and assessments due for travel agency commission programs, guest frequency program or other marketing programs we initiate that are attributable to the Hotel. Unless we bill you separately or direct otherwise, any fees payable to us under subsections (i), (ii), (iii), or (iv) are due each month at the same time Royalty Fees and Contributions are due. Failure to pay any of the foregoing fees shall constitute a default of this Agreement.
- (5) "Gross Room Revenues" shall mean gross receipts attributable to or payable for the use, occupancy or rental of Guest Rooms, including, without limitation, barter and credit transactions (before commissions and discounts for credit cards) and the net proceeds of use and occupancy and business interruption, rent loss, or similar insurance held by you with respect to the Hotel. However, insurance proceeds are included in Gross Room Revenues only if you actually receive them. Gross Room Revenues do not include gratuities to employees or service charges levied in lieu of such gratuities which are payable to employees, or any taxes or fees collected by you for transmittal to any taxing authorities.

- (6) All payments for Royalty Fees, Contributions, and other fees due to us hereunder shall be made by electronic bank drafts ("Electronic Bank Drafts"). You must execute the Electronic Bank Authorization attached to this Agreement as Attachment D to allow us to make Electronic Bank Drafts. You must also execute any additional or new forms and complete any reasonable procedures we establish for Electronic Bank Drafts. We will submit Electronic Bank Drafts only for the payments for Royalty Fees, Contributions, and other fees due to us hereunder. We may change the procedure for monthly payments from time to time and require you to (a) make your monthly payments to a designated bank account by telegraphic transfer or other means we specify and (b) execute any authorizations or other documentations required to implement such procedure. On the date Royalty Fees and Contributions are due, you shall report to us by telephone, electronic means or in written form, as we direct, in a manner more fully described in Paragraph 6, pursuant to our standard transmittal procedures, information regarding your Gross Room Revenues and any additional information we may request. You must maintain sufficient funds in your account for payments to us to be honored by your bank or financial institution and agree to advise us in advance of any changes in your bank, financial institution, or account. In the event that you (i) fail to have sufficient funds in your account, (ii) fail to initiate payment (if required), (iii) fail to advise us of changes in your bank, financial institution or account, or (iv) otherwise fail to pay any Royalty Fees or Contributions due, in addition to the overdue amount, you shall pay us interest on the overdue amount from the due date until paid in full at the lesser rate of one and one-half percent (1.5%) per month or the maximum rate permitted by law. Our ability to charge interest on all overdue amounts shall be in addition to any other remedies we may have as a result of your failure to make payments when due.
- (7) You agree to pay us a \$2,500.00 fee each time you apply to us to add any Guest Rooms to the Hotel.
- (8) Subject to our requirements and at your own expense, you may conduct local and regional marketing and advertising programs. You shall pay us reasonable fees for optional advertising materials you order from us for these programs.

E. No Right to Offset. You acknowledge and agree that you will not, for any reason, withhold payment of any Royalty Fees, Contributions or any other fees or payments due us pursuant to this Agreement. You have no right to withhold or offset any liquidated or unliquidated amounts, damages or other monies allegedly due you by us against any Royalty Fees, Contributions or any other fees due us under this Agreement.

4. *Our Responsibilities.*

A. Training. We provide initial training prior to, or within ninety (90) days of, the Opening Date. During the License Term, we will provide both required and optional training programs. We are responsible for the cost of instruction and you are responsible for all travel, lodging and other training expenses, including reasonable charges for training materials. If any training is held at your Hotel, you agree to provide our representatives with free lodging.

B. Services. Provided you are in full compliance with your obligations under this Agreement, you shall have access to the CRS, listings in advertising publications and the National Directory.

C. Consultation on Operations, Facilities and Marketing. On an ongoing basis, you may consult with us and we shall advise you in connection with Hotel operations, facilities and marketing, including suppliers for FF&E, signs and other equipment.

D. Funds.

- (1) Management of the Fund The Contributions will be made to a fund (the "Fund") that is managed by us. The account that holds the Contributions to the Fund will be in either Hawthorn Reservations and Advertising Fund, Inc.'s name or our name and we have a right to determine and change the name on the account for the Fund. For administrative convenience, we collect the Contributions before passing them on to the Fund.
- (2) Use of Marketing/Reservation Contributions. We will determine and direct all programs that the Fund finances, with sole control over the creative concepts, materials, and endorsements used and their geographic, market, and media placement and allocation. Our overhead is limited to costs associated with the financial management of the Fund and its Contributions, the salaries and benefits of certain individuals who work for our reservations, marketing, sales and guest services departments, and travel and related expenses. The Fund may pay for preparing and producing video, audio, and written materials and electronic media; developing, implementing, maintaining and improving the Hotel System's website and/or related strategies; developing, implementing, maintaining and improving the CRS, GDS, brand frequency programs, National Directory, and any other related or successor programs, systems or directories; developing, implementing, maintaining and improving any video, computer-related or other technology that Hawthorn Hotels use or sell; planning, coordinating and conducting various sales efforts for Hawthorn Hotels; market research and other research and development activities for improving the Hotel System; administering regional and multi-regional marketing and advertising programs, including purchasing trade journal and other media advertising and using advertising, promotion, and marketing agencies and other advisors to provide assistance; and supporting guest services and other advertising, promotion, and marketing activities. We will neither profit financially from, nor use the Contributions to pay for, marketing directly related to our sale of franchises. The Fund is not obligated to spend funds for marketing or reservation services exceeding the Contributions received from licensees using the Hotel System. If the Fund has a surplus of Contributions at the end of any taxable year, all expenditures in the following taxable year(s) shall be made first out of earnings accumulated from previous years' surplus Contributions, next out of current year earnings from surplus Contributions, and finally from current year Contributions. In some circumstances Contributions within the Fund will be insufficient to cover the costs and expenses associated with advertising, marketing or promotional programs such that it will be necessary for the Fund to borrow money from us or our affiliates, like our parent or third parties. If the Fund borrows monies from us or our affiliates or third parties, the Fund will be charged a reasonable interest rate. Upon your written request, we will provide you with an annual statement regarding Contributions. We have no obligation to ensure that any particular licensee benefits directly or pro rata from any advertising, marketing or promotional program conducted by the Fund. We agree that upon the dissolution or liquidation of the Fund, we will establish a

separate bank account in which any Contributions still held by the Fund at the time of such dissolution or liquidation, as well as any future Contributions under this Agreement, will be deposited.

E. Application of Manual. All Hawthorn Hotels must comply with the terms of the Manual, although we may permit limited exceptions based on local conditions or special circumstances. We have the right to add to and otherwise modify the Manual from time to time as we deem appropriate. Each change in the Manual will be explained to you at least thirty (30) days prior to its effective date. Any change to the Manual which, in our reasonable discretion, would cause a substantial investment by Hawthorn licensees will not be effective unless approved by sixty-six percent (66%) of open Hawthorn Hotels, calculated as of the date we issue a written notice to Hawthorn Hotels concerning the proposed change; provided, however, that any such open Hawthorn Hotel which is the subject at such time of an uncured notice of default issued hereunder shall not be deemed an open Hawthorn Hotel for purposes of approving the change to the Manual. Each open Hawthorn Hotel shall have one vote and approval of sixty-six percent (66%) of the open Hawthorn Hotels will be required to implement the change. Notwithstanding the foregoing, changes to the Manual which relate to applicable law, guest security and/or life/safety issues are not subject to the approval of Hawthorn licensees even if substantial investments are required.

F. Other Arrangements. We may arrange for development, marketing, operations, administration, technical and support functions, facilities, services and/or personnel with any other entity and may use any facilities, programs, services and/or personnel used in connection with the Hotel System in connection with our other business activities, even if our other business activities compete with the Hotel or the Hotel System. You acknowledge, understand and agree that any duty or obligation we have under this Agreement may be performed by a designee, employee or agent of ours, as we may in our sole discretion determine.

G. Inspections/Compliance Assistance and Quality Assurance Program. We have the right to inspect your Hotel at any time, with or without notice to you, to determine if the Hotel is in compliance with the Hotel System and the standards set forth in the Manual. If the Hotel fails to comply with either, we may, at our option and at your cost, require you to correct the deficiencies within the reasonable time we establish. Your Hotel must participate in our quality assurance program (the "Quality Assurance Program"). As part of the Quality Assurance Program, we, our representatives and/or designees may evaluate whether Hawthorn Hotels are in compliance with the Hotel System and the standards set forth in the Manual. The primary means of operating the Quality Assurance Program will be evaluations conducted through stays at Hawthorn Hotels.

5. *Proprietary Rights.*

A. Ownership of the Hotel System and Proprietary Marks. You acknowledge and shall not directly or indirectly contest or otherwise challenge or interfere with the validity or lawful use of our exclusive rights in and to the Proprietary Marks, the Copyrighted Materials, the Confidential Information, and all other elements of the Hotel System, and our exclusive rights to use and license all or some of the foregoing (collectively, the "Proprietary Rights"), either during the License Term and thereafter. All improvements, derivatives, and additions to or associated with the Hotel System made by you or anyone else shall be owned exclusively by us, and all uses by you of the Proprietary Marks shall inure exclusively to our benefit and shall be owned exclusively by us or our licensor or designee. Upon expiration or termination of this Agreement, no monetary amount shall be attributed to any goodwill associated with your use of the Hotel System or any element thereof.

B. Proprietary Rights Disputes. We have the sole right to handle third party disputes concerning the use of all or any part of the Hotel System, and you shall, at your reasonable expense, extend your full cooperation to us in all matters relating to the operation of the Hotel. All recoveries made as a result of disputes with third parties regarding use of the Hotel System or any part thereof belong solely to us. We are not required to initiate lawsuits against alleged imitators or infringers and may settle any dispute in our discretion. You shall not initiate any lawsuit or proceeding against alleged imitators or infringers or any other lawsuit or proceeding to enforce or protect the Hotel System without our prior written consent.

C. Protection of Name and Proprietary Marks. Both parties to this Agreement shall use their reasonable best efforts to protect and maintain the Proprietary Marks and their distinguishing characteristics. You agree: (i) to execute any documents we request to obtain or maintain protection for the Proprietary Marks; (ii) to use the Proprietary Marks only in connection with the operation of your Hotel and only as we instruct; and (iii) that your unauthorized use of the Proprietary Marks shall constitute both an infringement of our rights and a material breach of your obligations under this Agreement. You must notify us immediately, in writing, if you have any actual or constructive knowledge of any infringement or challenge to your use of the Proprietary Marks or any unauthorized use or possible misuse of either the Proprietary Marks, including the brand extensions used by the Hotel System.

D. Protection of Other Proprietary Rights. You agree: (i) to execute all documents we request to obtain or maintain protection for the Copyrighted Materials, Confidential Information and any other Proprietary Rights; (ii) to use the Copyrighted Materials, Confidential Information and all other Proprietary Rights only in connection with the operation of your Hotel and only as we instruct; and (iii) that your unauthorized use of any of the Copyrighted Materials, Confidential Information and any other Proprietary Rights is an infringement of those rights, and any unauthorized disclosure of the Confidential Information is a misappropriation and infringement of our rights in the Confidential Information, and that these activities also constitute a material breach of your obligations under this Agreement. You must notify us immediately, in writing, if you have any actual or constructive knowledge of: (i) any infringement of or challenge to your use of the Copyrighted Materials, Confidential Information or any other Proprietary Rights; (ii) any wrongful use or disclosure of Confidential Information; or (iii) any misuse of the Copyrighted Materials or any other Proprietary Rights.

E. Remedies for Proprietary Rights Violations. You agree that any violation by you of our Proprietary Rights as described in Paragraphs 5C and 5D shall result in immediate irreparable harm to us, and in our right to seek an immediate temporary and preliminary injunction without the need for posting any bond, as well as in our right to seek and obtain all other legal and equitable remedies then available to us, including the possibility of an immediate termination of this Agreement.

F. Substitution of Proprietary Marks. If it becomes advisable during the License Term, in our discretion, to modify or discontinue use of any Proprietary Mark and/or to adopt or use one or more additional or substitute Proprietary Marks, then you agree to adhere to any such changes at your expense. We will not be liable to you for any expenses, losses or damages you may sustain as a result of any Proprietary Mark addition, modification, substitution or discontinuation.

6. *Records and Audits.*

A. Monthly Reports. By the third (3rd) day of each month, you agree to prepare and submit to us a statement for the previous month, certified by your chief financial or principal accounting officer, listing Gross Room Revenues, other revenues generated at the Hotel, room occupancy rates, reservation data, the amounts currently due under Paragraph 3D and other information we deem useful in connection with the Hotel System (the "Data"). The statement shall be in such form and detail as we may reasonably

request, shall be our property and may be used by us for all reasonable purposes. We will not knowingly provide Data on your Hotel as an inducement to develop other hotel brands in your market area, although you understand that some of the Data may be compiled into information we provide to prospective licensees in an aggregate manner.

B. Preparation and Maintenance of Records. You agree to: (i) prepare on a current basis in a form satisfactory to us, (and preserve for at least four (4) years), complete and accurate records concerning Gross Room Revenues and all financial, operating, marketing and other aspects of the Hotel; and (ii) maintain an accounting system which fully and accurately reflects all financial aspects of the Hotel, including, but not limited to, books of account, tax returns, governmental reports, register tapes, daily reports, profit and loss and cash flow statements, balance sheets and complete quarterly and annual financial statements. We reserve the right to require you to grant us independent access to your computer system to permit us to obtain sales information, occupancy information and other data that we find useful for the Hotel System.

C. Audit. We or our agents may, at any time, examine and copy all books, records, and tax returns related to your Hotel and, at our option, require an independent audit. If an inspection or audit reveals that you have understated payments in any report to us, you shall immediately pay us the amount understated, in addition to interest from the date such amount was due until paid, at the lesser of one and one-half percent (1.5%) per month or the maximum rate permitted by law. In this event, we may also require that all of your future annual financial statements be audited at your expense by an independent certified public accounting firm you select and we approve. If an inspection or audit discloses an underpayment to us of three percent (3%) or more of the total amount owed during any six (6) month period, you shall, in addition to paying the understated amount with interest, reimburse us for our costs and expenses in connection with the inspection or audit, including legal and accounting fees. These remedies supplement any others we may have under this Agreement.

D. Annual Financial Information. Upon our request, not later than ninety (90) days after the end of your fiscal year, you must provide us with one or more of the following as we may request, certified by your chief financial or principal accounting officer to be true and correct: complete financial statements for such year prepared in accordance with generally accepted accounting principles consistently applied; your income tax returns related to the operation of the Hotel during such year; and statements reflecting all Gross Room Revenues and all sources and amounts of all other revenues generated at the Hotel during such year. Any false certification shall be a material breach of this Agreement. Upon our request from time to time you also agree to provide us with operating statistics for the Hotel.

7. *Indemnity and Insurance.*

A. Indemnity. You agree that nothing in this Agreement authorizes either party to make any contract, agreement, warranty or representation on the other's behalf, or to incur any debt or other obligation in the other's name, and that neither party shall assume liability for, or be deemed liable as a result of any such action, or by reason of any act or omission of the other party or any claim or judgment arising therefrom.

- (1) In addition to your obligation to procure and maintain insurance hereunder, you agree to indemnify, defend and hold harmless us, our parent, affiliates, subsidiaries and our respective officers, directors, agents, employees, successors and assigns (the "Indemnified Parties") against, and to reimburse the Indemnified Parties for, any and all claims or actions arising or alleging to arise directly or indirectly from, as a result of, or in connection with, (a) the Application you submitted to us, (b) the construction, use, occupancy or operation of the Hotel,

including, but not limited to, claims alleging either intentional or negligent conduct, acts or omissions by you or us relating to the operation of the Hotel or the Hotel System, and (c) any breach of the terms and conditions of this Agreement by you, as well as the costs and expenses, attorneys' fees, of defending against said claims or actions. Without diminishing your obligation to indemnify and to hold us harmless, at your expense (including, without limitation, attorneys' fees and costs) and risk, we may elect to assume (but we are not obligated to undertake) the defense and/or settlement of any such claim or action, provided that we will seek your advice and counsel, and keep you informed, with regard to any proposed or contemplated settlement. You agree that this indemnity will survive the expiration or termination of this Agreement. You have no obligation to indemnify us if a court of competent jurisdiction makes a final decision not subject to further appeal that we or our employees directly engaged in willful misconduct or intentionally caused the property damage or bodily injury that is the subject of the claim. You shall notify us immediately (but not later than five (5) days following your receipt of notice) of any claim, action or potential claim or action naming any Indemnified Party as a defendant or potential defendant (the "Indemnification Notice"). The Indemnification Notice shall include copies of all correspondence or court papers relating to the claim or action. Your obligation to indemnify us shall not be limited in any way by reason of any insurance which may be maintained by us.

- (2) We shall indemnify you and hold harmless your parent, affiliates, subsidiaries and respective officers, directors, agents, and employees against all claims against you arising as a result of, or in connection with, any act or omission on our part which is adjudicated by a court of competent jurisdiction to be the sole cause of the claim, as well as the cost of defending the claim, provided, however, we will not be required to indemnify, defend or hold harmless pursuant to this clause if such action or omission resulted from our exercise of our rights under this Agreement. You must promptly notify us in writing of any claim to which you seek indemnification under this Paragraph 7A(2) and you must cooperate and assist us.
- (3) If you fail to comply with this Paragraph 7A, or separate counsel is appropriate, in our discretion, because of actual or potential conflicts of interest, we may retain attorneys and independently defend any claim, action or alleged claim or action at your sole expense including, without limitation, attorneys' fees and costs. You agree that we must approve any settlement of any such claim or action if it could have an adverse effect on us, the Hotel System or other Hawthorn licensees with respect to such claim or action or other matters. You agree that our obligations hereunder are exclusively to you, and no other party may rely on, enforce, or obtain relief for breach of such obligations.

B. Insurance. You must purchase at your expense, and maintain at all times during the License Term, all insurance requirements as required by applicable law, any lease or mortgage covering the Hotel and our specifications regarding amounts and types of insurance as specified in the Manual or by written notice to you. Prior to the Opening Date, and thereafter on an annual basis and each time you change the terms of your insurance policy(ies) or carrier, you shall provide us with certificates of insurance which: (i) evidence your insurance coverage including amounts and the amount of your deductible; (ii) show that your insurance policy(ies) name Hawthorn Suites Franchising, Inc. and U.S. Franchise Systems, Inc. as additional insureds and that said insurance will be primary to any insurance carried by the additional

insureds; and (iii) state that your policies may not be canceled, amended, altered or permitted to lapse or expire without thirty (30) days prior written notice to us. At a minimum, all insurance certificates must be provided to us prior to commencement of the construction or renovation of the Hotel and prior to the authorized Opening Date of the Hotel. All insurance policies shall be written on a fully insured basis. Deductibles and self insurance retentions are subject to our prior approval. You must renew all insurance policies and related documents, and upon such renewal, you shall furnish renewal certificates to us prior to the expiration date of the existing term of the policies in question. Your obligation to maintain insurance as required herein and to name Hawthorn Suites Franchising, Inc. and U.S. Franchise Systems, Inc. as additional insureds, shall survive termination or expiration of this Agreement. All policies of insurance required by this Agreement shall be written by insurance carriers rated "B+VI" or better by A.M. Best, and approved by and satisfactory to us. Such carriers shall be authorized to do business throughout the Territory. If more than one lodging facility is on the insurance coverage and there is an aggregate on the policy, it must be designated that there is a "per location aggregate" endorsement. At the minimum, you agree to maintain or cause to be maintained (as applicable) the following categories of insurance underwritten by an insurer we approve:

- (1) employer's liability and workers' compensation insurance as prescribed by applicable law;
- (2) comprehensive general and automobile liability insurance [with products, completed operations and independent contractors coverage], all on an occurrence basis, with single-limit coverage for personal and bodily injury and property damage of at least \$7,500,000.00 per occurrence which can be met by a combination of primary liability and umbrella liability policies. In connection with the construction or any material renovations of the Hotel, you also agree to cause your general contractor to maintain comprehensive general liability insurance of at least \$7,500,000.00 per occurrence naming Hawthorn Suites Franchising, Inc. and U.S. Franchise Systems, Inc. as additional insureds and evidence same by providing us with a certificate of insurance prior to commencement of construction or any material renovation of the Hotel. Such insurance must be primary to any insurance carried by the additional insureds; and
- (3) Dram Shop/Liquor liability insurance, including host liability insurance, in the same amounts provided above and naming the same additional insureds, if you serve alcohol of any kind or host activities involving the dispensing and/or consumption of alcoholic beverages at the Hotel, authorization for which requires our prior written approval. If you begin serving alcohol or hosting activities involving the dispensing and/or consumption of alcoholic beverages at any time during the License Term, you agree to notify us immediately and provide us with a revised certificate of insurance evidencing Dram Shop/Liquor liability/Host liability insurance coverage.

8. *Transfer.*

A. Transfer by Us. We have the right to transfer or assign our rights or obligations under this Agreement to any person or entity and our interests will bind and inure to the benefit of any transferee, successor or assignee. After our transfer or assignment of this Agreement to a person or entity who expressly assumes the obligations under this Agreement, we will have no further obligations under this Agreement.

B. Transfer by You. You agree that the rights and duties created by this Agreement are personal to you and that we have granted this License in reliance on the business skill, financial capacity and character of you and your partners, shareholders or members. You may mortgage the Hotel to any financial institution without our consent if you remain the mortgagor of the Hotel, however, you must notify us and obtain our consent if you want to pledge or mortgage your interest in this Agreement. Except as provided in Paragraph 8B(1), neither you, any successor to your interest, nor any individual, partnership, corporation, or other legal entity which directly or indirectly owns any interest in this License or in you shall sell, assign, transfer, convey or otherwise encumber any direct or indirect interest in this License, the Hotel or the assets of the Hotel without our prior written consent, which consent will not be unreasonably withheld.

- (1) A transfer of less than a fifty percent (50%) equity interest in you which does not transfer Control (as defined below), does not require our consent if you notify us in writing at least thirty (30) days prior to the effective date of the transfer.
- (2) A transfer which alone or combined with previous or simultaneous transfers changes Control of the License, you, the Hotel, or greater than fifty percent (50%) of the Hotel's assets requires our prior written consent (hereinafter referred to as a "Change of Ownership"). You must give us at least sixty (60) days' advance written notice of any proposed Change of Ownership. If there is a proposed Change of Ownership and the new owner (the "transferee") desires to continue to operate the Hotel within the Hotel System, the transferee must submit to us a complete franchise application for a new license and a new license agreement (the "Change of Ownership Application") accompanied by payment of the transfer fee as indicated in Paragraph 8B2(f) below. If we disapprove the Change of Ownership Application, we will refund the transfer fee less \$5,000.00 to cover our processing costs. We will process the Change of Ownership Application according to our then-prevailing policies and procedures, including the review of the transferee's background, creditworthiness, operations ability and capacity, prior business dealings, financial resources, market feasibility and other factors concerning the proposed transferee. We have sixty (60) days from our receipt of the completed Change of Ownership Application to consent or withhold our consent to the proposed transfer.

We may, at our option, or as applicable, require any or all of the following as conditions of our consent to a transfer:

- (a) your compliance with all terms of this Agreement, including, but not limited to, curing any and all existing defaults hereunder or events that would become defaults with the giving of notice and the passage of time including the payment in full at the closing of the Change of Ownership of all unpaid obligations owed to us and any of our affiliates by you;
- (b) the transferee entity or individual, and all shareholders, partners or members of the transferee (collectively, the "Transferee"), shall meet our then-current qualifications for new licensees;
- (c) if the Hotel is open for business, the Transferee shall execute our then-current form of transfer license agreement and if the Hotel is not open for business, the Transferee shall execute our then-current form of license agreement. In either case, the Transferee shall also execute other

applicable agreements for new Hotel System licensees and those of the Transferee's principals and/or owners we designate will execute our then-current form of Guaranty;

- (d) any new general manager retained by the Transferee completes our initial training program;
 - (e) the Hotel shall be upgraded, at a minimum, pursuant to a Property Improvement Plan ("PIP") prepared by us and completed within the time period we designate;
 - (f) you or the Transferee must pay us a \$10,000.00 transfer fee unless the transfer is to the spouse, issue, parent, or sibling of your partner(s) or shareholder(s), or from one partner or shareholder to another;
 - (g) you execute a general release, in our then-current standard form, of any and all claims by you against us and our affiliates and the respective officers, directors, shareholders, and employees of each up through the effective date of transfer; and
 - (h) you execute all documents we request evidencing your agreement to remain liable for all obligations to us and our parent, subsidiaries and affiliates existing prior to the effective date of the transfer.
- (3) "Control" or "Controlling" shall mean the direct or indirect possession of the power to direct or cause the direction of the management and policies of any person or legal entity.
- (4) Except as otherwise provided herein, any purported assignment or transfer without our prior written consent is null and void, constitutes a material breach of this Agreement, enables us to terminate this Agreement without providing you an opportunity to cure and allows us to seek both injunctive relief and monetary damages.
- (5) If you are an individual, you may transfer this License without paying a transfer or application fee if: (i) you retain at least twenty-five percent (25%) ownership; (ii) we receive your request and supporting documentation before the Opening Date; and (iii) the Transferee meets our then-current standards for new licensees.

C. Transfers of the License or Equity Interest in You Upon Death. Upon the death or mental incompetency of you or a person Controlling you, if you are a corporation, partnership or limited liability company, the executor, administrator, or personal representative ("Representative") of such person shall transfer within three (3) months his interest to a third party subject to our approval and the conditions set forth in Paragraph 8B. In the case of transfer by devise or inheritance, if the heirs or beneficiaries can not meet the conditions of Paragraph 8B, the Representative shall have six (6) months from the death or mental incompetency to dispose of the interest, subject to the transfer provisions of this Agreement, after which time we may terminate this Agreement.

D. Registration of a Proposed Transfer of Equity Interests. Securities in you or your affiliates may be offered to the public only with our prior written consent. All materials required by federal or state law for the sale of any interest in you or your affiliates shall be submitted to us for review prior to

distribution or filing with any government agency, including any materials to be used in any offering exempt from registration under federal or state securities laws. No offering by you or your affiliates shall imply or state (by use of the Proprietary Marks or otherwise) that we are participating as an underwriter, issuer or your representative. You agree to pay us a non-refundable fee equal to the greater of \$5,000.00 or our costs and expenses of reviewing each proposed offering including, without limitation, attorneys' fees. You acknowledge that we may require changes to your offering materials and a full indemnification from all participants in the offering before issuing our consent.

E. Non-Waiver of Claims. 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 by the Transferee with the terms of this Agreement.

F. Licensor's Right of First Refusal.

If in the event that any party holding any direct or indirect interest in this License, in you, or in all or substantially all of the assets of the Hotel desires to accept any *bona fide* offer from a third party to purchase such interest, you shall notify Licensor as provided in Paragraph 13F, and shall provide such information and documentation relating to the offer as Licensor may require. Licensor (or Licensor's designee) shall have the right and option, provided the third party wishes to remove the Hotel from the Hotel System, exercisable within thirty (30) days after receipt of such written notification, to send written notice to the seller that Licensor (or Licensor's designee) intends to purchase the seller's interest on the same terms and conditions offered by the third party. If Licensor (or Licensor's designee) elects to purchase the seller's interest, closing on such purchase shall occur within ninety (90) days from the date of notice to the seller of the election to purchase by Licensor. If Licensor elects not to purchase the seller's interest, any material change thereafter in the terms of the offer from a third party shall constitute a new offer subject to the same rights of first refusal by Licensor as in the case of the third party's initial offer (minor changes to the offer shall not constitute a new offer and shall be subject to the notice period of the initial offer). Failure of Licensor to exercise the option afforded by this Paragraph 8F shall not constitute a waiver of any other provision of this Agreement, including all of the requirements of this Paragraph 8F, with respect to a proposed transfer. In the event the consideration, terms, and/or conditions offered by a third party are such that Licensor (or Licensor's designee) may not reasonably be required to furnish the same consideration, terms, and/or conditions, then Licensor (or Licensor's designee) may purchase the interest proposed to be sold for the reasonable equivalent in cash. If the parties cannot agree within thirty (30) days on the reasonable equivalent in cash of the consideration, terms, and/or conditions offered by the third party, an independent appraiser shall be designated by Licensor (or Licensor's designee) at its expense, and the appraiser's determination shall be binding.

G. No Right of First Refusal.

In the event that you receive an offer from a third party to purchase the Hotel and the third party wishes to keep the Hotel in the Hotel System, Licensor shall have no right of first refusal provided the third party meets the qualifications set forth in Paragraph 8.

9. Condemnation and Casualty.

A. Condemnation. You shall immediately notify us of any proposed taking of any portion of the Hotel by eminent domain or condemnation. If we agree that the Hotel or a substantial portion of the Hotel is to be taken, we may, in our sole judgment, transfer this Agreement to a location selected by you within four (4) months of the taking. If we approve the new location, and if within two (2) years of the closing of the Hotel, you open a new Hawthorn Hotel at the new location in accordance with our specifications, then the new Hawthorn Hotel shall be deemed to be the Hotel licensed hereunder. If a

condemnation takes place, and you do not open a new hotel within such two (2) year period (irrespective of the brand), then we may terminate this Agreement immediately upon notice to you, but we will not require you to pay us any liquidated damages under Paragraph 10E. However, if a condemnation takes place, and you open a new hotel but such new hotel is not a Hawthorn Hotel such that the new hotel does not, for whatever reason, become the Hotel licensed hereunder in accordance with this Paragraph 9A (or if it is evident to us that such shall be the case), then we may terminate this Agreement immediately upon notice to you without the right to purchase the Hotel under Paragraph 10E(1), and you will be required to pay us liquidated damages under Paragraph 10E based upon \$3,000 multiplied by the number of guest rooms at the new hotel.

B. Casualty. If the Hotel is damaged by fire or casualty, you shall repair the damage in accordance with our standards. If the damage or repair requires closing all or any portion of the Hotel, you shall: (i) notify us immediately; (ii) commence reconstruction within four (4) months of closing; and (iii) reopen for continuous business operations as a Hawthorn Hotel as soon as practicable (but in any event within twenty-four (24) months after closing of the Hotel and not without providing us at least ten (10) days advance notice of the proposed reopening date). If the Hotel is reopened, but not in accordance with this Paragraph 9B including, without limitation, failing to reopen the Hotel as a Hawthorn Hotel, we may terminate this Agreement and you will be required to pay us liquidated damages under Paragraph 10E). However, if the Hotel is not reopened (either as a Hawthorn Hotel or under any other brand) in accordance with this Paragraph 9B, we may terminate this Agreement and you will be required to pay us liquidated damages under Paragraph 10E, provided, however, that the amount of liquidated damages shall not exceed the amount of any insurance proceeds you receive. At the time you pay the liquidated damages, you will be required to show us documentation evidencing the insurance proceeds you receive.

C. Extensions of Term. The License Term will be extended for the period the Hotel is not operating as a result of fire or other casualty. You are not required to make any payments pursuant to Paragraph 3D(3) while the Hotel is closed by reason of condemnation or casualty unless you receive insurance proceeds.

10. *Termination.*

A. Expiration of Term. This Agreement will expire without notice effective twenty (20) years from the authorized Opening Date, subject to its earlier termination as set forth herein. Subject to Paragraph 11A, upon the expiration of the License Term, you shall comply with our de-identification procedures as set forth in Paragraph 10D of this Agreement and/or in the Manual (the "De-Identification Procedures").

B. Termination by Licensee. You shall have no right to terminate this Agreement at any time, under any circumstances, prior to the expiration of the License Term. You agree to operate the Hotel within the Hotel System in compliance with this Agreement for the full License Term.

C. Termination by Us.

(1) Default with Opportunity to Cure. We have the right to terminate this Agreement, effective on the date stated in our written notice (or the earliest date permitted by applicable law), if:

- (a) you fail to pay us or any of our affiliates fees or other amounts due under this Agreement or any other agreement between us or between you and any of our affiliates including, without limitation, Application Fees, Royalty Fees, Contributions, GDS fees, travel agent commission fees or

ISP fees or fail to pay when due any financial obligation to a supplier of services or materials used at the Hotel, within thirty (30) days of our written notice of default to you;

- (b) you fail to strictly comply with, or you violate, any other provision of this Agreement, the Manual or any Hotel System standard, or you otherwise breach this Agreement and do not correct the failure or cure the violation or breach within thirty (30) days from your receipt of our written notice of default to you or from the date you refuse or fail to accept such written notice of default;
 - (c) you fail to (i) provide us with a copy of the Site Documentation satisfactory to us of your control of the Hotel site on or before commencement of construction or any material renovation of the Hotel, (ii) thereafter maintain control of the Hotel site during the term of this Agreement consistent with the Site Documentation, or (iii) provide us with Site Documentation satisfactory to us of your control of the Hotel site within ten (10) days of our request;
 - (d) you fail to comply with any term of the software license agreement referred to in Paragraph 3A; or
 - (e) you do not buy, maintain or provide us with evidence of insurance required by this Agreement.
- (2) Default Without Opportunity to Cure (Immediate Termination by Us). We may terminate this Agreement without giving you an opportunity to cure the default, effective upon written notice to you (or such later date as required by law), if:
- (a) you, or any guarantor of your obligations (a "Guarantor"), shall: (i) not pay its debts as they become due; (ii) admit its inability to pay its debts; or (iii) make a general assignment for the benefit of creditors;
 - (b) you, or any Guarantor, commence or consent to any case, proceeding or action seeking: (i) reorganization, arrangement, adjustment, liquidation, dissolution or composition of you or your debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors; or (ii) appointment of a receiver, trustee, custodian or other official for any portion of its property;
 - (c) you, or any Guarantor, take any corporate or other action to authorize any of the actions set forth above in Paragraphs 10C(2)(a) or 10C(2)(b);
 - (d) any case, proceeding, or other action against you or any Guarantor is commenced seeking an order for relief against it as debtor, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other official for it or for any portion of its property, and such case, proceeding or other action: (i) results in an order for relief against it which is not fully stayed within seven (7)

business days after the entry thereof; or (ii) remains undismissed for forty-five (45) days;

- (e) an attachment remains on all or any part of the Hotel or your or any Guarantor's assets for thirty (30) days;
- (f) you or any Guarantor fail, within sixty (60) days of the entry of a final judgment against you or any Guarantor in any amount exceeding \$50,000.00, to discharge, vacate or reverse the judgment, or to stay execution of it, or if appealed, to discharge the judgment within thirty (30) days after a final adverse decision in the appeal;
- (g) you cease to construct and/or operate the Hotel at the location designated on Attachment A or under the Proprietary Marks, or lose possession or the right to possession of all or a significant part of the Hotel, for whatever reason, except as otherwise provided herein;
- (h) you contest in any court or proceeding either all or any portion of our ownership of the Hotel System or the validity of any of the Proprietary Marks;
- (i) you transfer your rights under this Agreement in violation of Paragraph 8;
- (j) you fail to identify the Hotel to the public as a Hawthorn Hotel or you discontinue operating the Hotel as a Hawthorn Hotel;
- (k) any action is taken to dissolve or liquidate you or any Guarantor, except due to death;
- (l) 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 Hotel System, or the Proprietary Marks, including, but not limited to, any violation of laws or regulations relating to discrimination, equal employment or equal opportunity;
- (m) you knowingly maintain false books and records of account or knowingly submit false or misleading reports or information to us, including any information you provide or fail to provide to us on your franchise application or otherwise;
- (n) you disclose any Confidential Information to any unauthorized person or fail to exercise reasonable care to prevent such disclosure;
- (o) in our discretion, we determine a threat or danger to public health or safety results from the construction, maintenance or operation of the Hotel, such that an immediate shutdown of the Hotel or construction site is necessary to avoid a substantial liability or loss of goodwill to the Hotel System;

- (p) we exercise our right to terminate this Agreement pursuant to Paragraph 9A because of a condemnation;
 - (q) you or your affiliate, attempt to register, or register, our name or any of our trademarks or service marks, or a derivative of any of the foregoing, including, without limitation, any Proprietary Mark, without our prior written consent;
 - (r) you violate our Proprietary Rights as described in Paragraphs 5D or 5E of this Agreement; or
 - (s) you receive from us three (3) notices of default of this Agreement within a twelve (12) month period, regardless of whether the defaults are cured by you.
- (3) Suspension of Rights. You acknowledge that upon your failure to remedy any default specified in any written notice issued to you under Paragraphs 10C(1)(a) or 10C(1)(b), we also have the right to (i) suspend your right to use and your access to the CRS, GDS and any cooperative advertising program, (ii) remove your Hotel from our advertising publications and/or the National Directory, (iii) suspend or terminate any temporary or other fee reductions we may have agreed to in any amendment(s) to this Agreement and/or any stipulations in Paragraph 14 below, and/or (iv) refuse to provide any operational support, until you comply to our satisfaction with the written notice. If we exercise our right to suspend your rights, we will only do so after your cure period under the written notice of default has expired. You agree that our exercise of these rights will not constitute an actual or constructive termination of this Agreement nor will it constitute our sole and exclusive remedy. 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. During any period of suspension, all fees under Paragraph 3D shall continue to be payable by you. Additionally, if you are in default under this Agreement, we have the right to withhold or condition our consent or approval if needed until you cure all defaults. Our election to suspend your rights as provided above shall not be a waiver by us of any breach of this Agreement or any other term, covenant or condition of this Agreement.
- (4) General.
- (a) In any judicial or other proceeding in which the validity of our termination of this Agreement is contested, we may cite and rely upon all of your defaults or violations of this Agreement, not solely the defaults or violations referenced in any written default notice sent to you.
 - (b) Any notice of termination or suspension of services we issue to you shall not relieve you of your obligations that survive termination of this Agreement, including, but not limited to, its de-identification, indemnification and the payment of liquidated damages.

- (c) By executing this Agreement, you agree that we have the right and authority (but not the obligation) to notify your Lender, if any, if you should ever be in default of this Agreement.

D. Obligations of Hotel Upon Termination or Expiration of this Agreement.

- (1) Upon the termination or expiration of this Agreement, you must immediately cease using the Hotel System and you must de-identify the Hotel by taking whatever action we deem necessary to ensure that the Hotel is no longer identified as a hotel within the Hotel System. You agree to take, among other actions, the following steps to de-identify the Hotel: (i) return the Manual and all other Copyrighted Materials and all materials containing Confidential Information or bearing any of the Proprietary Marks to us; (ii) remove all items identifying the Hotel System, including, without limitation, taking the following actions: remove all elements of the trade dress, and other distinctive features, devices and/or items associated with the Hotel System including FF&E, interior signage, lobby signage, door identifier signage, directional signage, phone face plates, memo pads, pens, cups, glasses, signage on the back of guestroom doors, and all other signage bearing one or more of the Proprietary Marks; provided, however, that you may immediately cover all exterior signage in a professional manner until such time, not to exceed thirty (30) days from the date of termination, as permanent removal occurs, provided that upon termination you both immediately schedule the permanent removal of all exterior signage bearing any of the Proprietary Marks and provide us with written evidence of such scheduling. Additionally, at your expense, you must make such specific additional changes as we reasonably request for purposes of de-identifying the Hotel; (iii) change the telephone listing for the Hotel and immediately stop answering the telephone in any way that would lead a current or prospective customer, vendor or any other person to believe that the Hotel is still connected with the Hotel System or us; (iv) cancel all fictitious or assumed or other business name registrations relating to your use of the Proprietary Marks, and; (v) permit our representatives to enter the Hotel on no less than 24-hour's notice to conduct inspections on a periodic basis until de-identification is completed to our satisfaction. Until de-identification is completed to our satisfaction, you agree to maintain a conspicuous sign at the registration desk in a form we specify stating that the Hotel is no longer associated with the Hotel System. Unless we permit, you shall not represent to the public or hold yourself out as a former franchisee of ours. You acknowledge that the de-identification process intends to immediately alert the public that the Hotel is not affiliated with the Hotel System. If you fail to comply strictly with all of the de-identification provisions of this Paragraph 10D(1) after the termination or expiration of this Agreement, you agree to: (i) pay a royalty fee of \$5,000.00 per day until de-identification is completed to our satisfaction; and (ii) permit our representatives to enter the Hotel to complete the de-identification process at your expense. You agree to pay all our costs and expenses of enforcing these de-identification provisions, including, without limitation, all attorneys' fees and costs. Nothing contained herein limits our rights or remedies at law or in equity should you not complete the de-identification procedures as provided above, including, without limitation, our right to seek and obtain an injunction to remove or cause to be removed, at your sole cost and expense, all signage from the Hotel.

- (2) Unless otherwise provided herein, within five (5) days of the termination or expiration of this Agreement as the case may be, you will pay all amounts owed to us and our affiliates under this Agreement or any other agreement (including any promissory notes signed in connection with this Agreement).
- (3) You acknowledge and agree that upon the termination or expiration of this Agreement for any reason, we have the right to contact those individuals or entities who have reserved rooms with you through the CRS to inform them that your lodging facility is no longer part of the Hotel System. We further have the right to inform those individuals and entities of other Hotels within our Hotel System that are proximately located to your lodging facility in the event that the individuals or entities prefer to change their reservations so that they can stay at a Hawthorn Hotel. You agree that the exercise of our rights under this Paragraph 10D(3) shall not constitute an interference with your contractual or business relationship. You agree that the individuals and entities that made reservations with your lodging facility at the time it was a Hotel under this Agreement constitute our customers.
- (4) The following Paragraphs of this Agreement shall survive termination or expiration of this Agreement regardless of the circumstances: 5, 6C, 7, 10D, 10E, 12 and 13. 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 License Term, shall survive such termination or expiration.

E. Purchase Rights or Payment of Liquidated Damages. You acknowledge and confirm that we will suffer substantial damages by virtue of the termination of this Agreement including, without limitation, lost Royalty Fees, lost Contributions, lost market penetration and goodwill, loss of Hotel System representation in the area served by the Hotel, confusion of national accounts and individual customers, disadvantage in competing for national accounts and other types of bookings for the Hotel System, lost opportunity costs, and the expense we will incur in developing another franchise in the area served by the Hotel, which damages are difficult to estimate accurately, and the proof of which would be burdensome and costly, although such damages are real and meaningful to us and the Hotel System. Accordingly, upon termination of this Agreement prior to the expiration of the Term (except for a termination pursuant to Paragraph 9A), you and we agree that we shall have the right to elect by notice to you one of the following two alternatives:

- (1) We (or our designee) have the right exercisable by giving notice thereof ("Purchase Notice") within 15 days after the date of such termination, to purchase the Hotel premises and related property. If you and we agree as to a purchase price, closing shall take place within fifteen (15) days of such written agreement. If you and we cannot agree as to a purchase price within fifteen (15) days of the date of the Purchase Notice, you and we shall each obtain an appraisal of the fair market value of the Hotel from a nationally recognized appraiser of hotel properties comparable to the Hotel. You and we shall individually be responsible for the cost of the appraiser retained to prepare your and our respective reports. In determining the fair market value, the appraisers shall be instructed to assume that the Hotel is not subject to a management agreement, but is subject to a franchise agreement. If, after receiving the appraisals, you and we agree on the fair market value of the Hotel, such agreed fair market value shall constitute the purchase price hereunder and closing shall take place within fifteen (15) days of such agreement on fair market value. If,

after receiving the appraisals, you and we are not able within ten (10) days to agree on such fair market value, the purchase price shall be determined by "baseball arbitration" in Atlanta, Georgia in accordance with the Arbitration Rules for the Real Estate Industry of the American Arbitration Association then in effect ("AAA Rules"), as modified below in this Paragraph 10E. You and we shall jointly select a third party to act as the sole arbitrator (the "Arbitrator") to determine the fair market value of the Hotel, and such Arbitrator shall be a person having at least ten (10) years' recent professional experience in valuing real estate, including lodging properties and shall be qualified to act as an Arbitrator in accordance with the AAA Rules. If you and we do not agree on an Arbitrator with such qualifications within fifteen (15) days after the expiration of such ten (10) day period referred to above, the Arbitrator shall be appointed by the American Arbitration Association in Atlanta, Georgia in accordance with the AAA Rules.

- (a) The Arbitrator shall be instructed and obligated to decide, within thirty (30) days after appointment, solely whether the appraisal submitted by us or the appraisal submitted by you most accurately reflects the fair market value of the Hotel based upon the appraisals submitted and such information as is normally relied upon by an appraiser of hotels and real estate. The Arbitrator shall have no authority to compromise between the two appraisals and should only be authorized to choose one or the other. Each party agrees to fully cooperate and provide all information requested by the Arbitrator related to the determination of fair market value hereunder.
- (b) The Arbitrator's choice of appraisal shall be in writing, shall constitute the purchase price hereunder, and shall be final, conclusive and binding on the parties as an "award" under the AAA Rules and may be enforced, by a court of competent jurisdiction. The expenses of the arbitration shall be borne equally by you and us. We (or our designee) shall have the option, at any time within thirty (30) days of being notified in writing of the decision of the Arbitrator, to purchase the Hotel premises and related property at the purchase price fixed by the Arbitrator and closing shall take place within fifteen (15) days after we exercise our option provided for in this Sentence.

The closing under this Paragraph 10E(1) shall take place at a location, and on a date (subject to the timeframes set forth above in this Paragraph 10E(1)), we choose. You and we (or our designee) shall (i) execute documents including without limitation, deeds, affidavits, transfer and assignments and any other documents necessary or appropriate to vest legal, marketable and insurable fee simple title to the Hotel in us. You must satisfy all liens, mortgages and/or encumbrances on the Hotel. You must pay all closing costs related to the transaction provided for in this Paragraph 10E(1).

- (2) We have the right exercisable by giving notice thereof ("Liquidated Damages Notice") within 15 days after the date of such termination to receive liquidated damages in a lump sum as calculated below as of the effective date of termination: You must pay us the liquidated damages within 15 days after the date of our Liquidated Damages Notice. The liquidated damages payable under

this Paragraph 10E(2) shall be equal to ~~the greater of:~~ (i) **one thousand dollars (\$1,000.00)** multiplied by the number of approved Guest Rooms at the Hotel; ~~or~~ (ii) ~~either (a) the sum of thirty six (36) multiplied by the average monthly Royalty Fees and Contributions you owed us for the twelve (12) month period immediately preceding the month of termination if the Hotel has been open for twelve (12) months or more, or (b) if the Hotel has been open for less than twelve (12) months, the sum of thirty six (36) multiplied by the average monthly Royalty Fees and Contributions you owed us from the Opening Date through the month preceding the month of termination. Notwithstanding the foregoing, if the Hotel has not opened as of the effective date of termination, you agree to pay us liquidated damages in the amount of three thousand dollars (\$3,000.00) multiplied by the number of approved Guest Rooms at the Hotel. Additionally, notwithstanding any temporary fee reduction we may have agreed to in an amendment(s) to this Agreement and/or any stipulations in Paragraph 14 below, all liquidated damages calculations based on monthly fees shall be calculated on the full (and not the discounted) monthly Royalty Fees and Contributions required in Paragraph 3D above. Accordingly, you agree that the liquidated damages calculated under this Paragraph 10E(2) represent the best estimate of our damages arising from any termination of this Agreement prior to the expiration of the Term. Your payment of the liquidated damages to us shall not be considered a penalty, but rather a reasonable estimate of fair compensation to us for the damages we will incur because this Agreement did not continue for the full length of the Term. You acknowledge that your obligation to pay us liquidated damages is in addition to, not in lieu of, your obligations to pay other amounts due to us under this Agreement up to the date of termination and to strictly comply with the De-Identification Procedures. Should any valid, applicable law or regulation of a competent governmental authority having jurisdiction over this Agreement limit 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.~~

In addition to our rights under this Paragraph 10E, we have the right to recover reasonable attorneys' fees and costs incurred in enforcing our purchase rights or obtaining liquidated damages due hereunder plus interest. The legal remedies hereunder shall not preclude us from equitable remedies to which we may be entitled under applicable law. This Paragraph 10E shall survive termination of this Agreement.

11. Renewal.

Upon your written submission of our then-current form of application at least 180 days prior to this Agreement's expiration date, we shall grant you a ten (10) year renewal term if, in our sole discretion, the following criteria are satisfied:

- (1) you pay a non-refundable fee equal to one-half of the then-current franchise application fee;
- (2) you received passing Quality Assurance Scores (as defined in the Manual) on all evaluations conducted by us during the preceding three (3) year period;

- (3) you agree to upgrade the Hotel to meet our then-current standards, specifications and criteria for the Hotel System, which may include remodeling, refurbishing, structural alterations and other modifications to the existing Hotel;
- (4) you have a favorable operating and payment history;
- (5) you shall have the satisfaction all monetary obligations owed by you to us and any of our affiliates; and
- (6) you execute our then-current form of License Agreement.

Notwithstanding the foregoing, if an independent third party chosen by us determines that the location of the Hotel is inappropriate or obsolete for our brand, we shall not be required to renew your license. We will accept or reject your written renewal application within thirty (30) days after we receive it. You agree to execute a general release, in a form satisfactory to us, of any claims against us, our affiliates and each of their respective owners, members, managers, shareholders, directors, officers, agents and employees arising out of or relating to this Agreement or the parties' relationship; provided, however, that the release is not intended to act as a release or waiver of liability under applicable state franchise laws.

12. *Relationship of Parties.*

A. No Agency Relationship. You are an independent contractor. Neither party is the legal representative or agent of, or has the power to obligate the other for any purpose. The parties have a business relationship defined entirely by the express provisions of this Agreement. No partnership, joint venture, affiliate, agency, fiduciary or employment relationship is intended or created hereby.

B. Your Notices to Public Concerning Independent Status. You shall take such steps as we require to minimize the chance of a claim being made against us for any occurrence at the Hotel, or for acts, omissions or obligations of you or anyone affiliated with you or the Hotel. Such steps may include giving notice in private or public rooms or on advertisements, business forms and stationery, making clear to the public that we are not the owner or operator of the Hotel and are not accountable for events occurring at the Hotel.

C. Use of the Hawthorn Name. Without our prior written consent, you shall not use the word "Hawthorn" or any similar words or any Proprietary mark in your entity or trade name, internet domain name, or in connection with any website, nor authorize or permit such use by anyone else. If we consent to your use of a Proprietary Mark as a domain name, you may be required to sign our standard form of domain name license agreement. You shall not use the word "Hawthorn" or any other name or mark associated with the Hotel System to incur any obligation or indebtedness.

13. *Miscellaneous.*

A. Severability and Interpretation. The remedies provided in this Agreement are not exclusive. If any provision of this Agreement is held unenforceable, void or voidable, all remaining provisions shall continue in full force and effect unless deletion of the provision(s) materially frustrates the purpose of the parties or makes performance commercially impracticable. If any provision requires interpretation, such interpretation shall be based on the reasonable intention of the parties without interpreting any provision in favor of or against any party hereto by reason of the drafting of the party or its position relative to the other party.

B. Binding Effect. This Agreement is valid when executed and accepted by us at our office in Atlanta, Georgia.

C. Exclusive Benefit. This Agreement is exclusively for the benefit of the parties hereto and shall not create liability to any third party, unless otherwise set forth herein. No agreement between us and any third party is for your benefit.

D. Entire Agreement. This Agreement, including all Attachments, constitutes the entire agreement between the parties relating to the Hotel. Neither we nor any person on our behalf has made any representation to you concerning this Agreement, the Hotel or the Hotel System that is not set forth herein or in our FDD. No change in this Agreement shall be valid unless in writing signed by both parties. No failure to require strict performance or to exercise any right or remedy hereunder shall preclude requiring strict performance or exercising any right or remedy in the future. This Agreement may be executed in multiple copies, each of which will be deemed an original.

E. Our Withholding of Consent. Our consent, wherever required, may be withheld if any default by you exists under this Agreement. Prior to any deviation by you from any material term of this Agreement, you must obtain our prior written consent.

F. Notices. All notices given under this Agreement shall be in writing, delivered by any means which provides written evidence of the date received. Notices shall be deemed given at the date and time receipt is evidenced to the respective parties at the following addresses unless and until a different address is designated by written notice to the other party:

Notices to us:	Hawthorn Suites Franchising, Inc.	Notices to you:	AJAM, INC.
	13 Corporate Square, Suite 250		23046 Avenida De La Carlota
	Atlanta, Georgia 30329		Laguna Hills, CA 92653
	Attention: Executive VP & Chief		Attn: Upamanyu Raval
	Operating Officer		

Should you refuse to accept any notice we attempt to deliver hereunder or we are unable to deliver any notice due to your actions, you acknowledge and agree that such notice shall be deemed received by you if we mail or deliver such notice to you for a second time to your address designated in this Paragraph 13F. We reserve the right to notify both your lender and any or all of your members, partners or shareholders in the event we issue any notice under this Agreement.

G. Descriptive Headings. The headings in this Agreement are for convenience only and shall not control or affect the meaning or construction of any provision.

H. Management of the Hotel. You must at all times retain and exercise direct management control over the business of the Hotel. You shall not enter into any lease, management agreement or other

similar arrangement for the operation of the Hotel or any part thereof with any independent entity without our prior written consent, which consent will not be unreasonably withheld.

I. Guest Room Rates. You shall establish room rates for the Hotel which must be submitted to us promptly upon our request. With the exception of special event periods, you agree not to charge any rate exceeding the rate you submit in writing for sale by the CRS.

J. Attorneys' Fees. If we or any of our affiliates or any of our or their directors, officers or shareholders are a party to, or are summoned or subpoenaed in connection with, any legal proceeding or action related to this Agreement including, but not limited to, any proceeding or action concerning your operation or ownership of the Hotel or due to the acts or omissions of you or your representatives (and not by any act or omission of ours), you will be liable to us for all reasonable attorneys' fees, costs and expenses we or they incur in any such proceeding or action, regardless of whether such proceeding or action proceeds to judgment. Additionally, if we incur any attorneys' fees or costs or expenses to enforce any of your obligations hereunder, or to defend against any claim, action or proceeding due to your failure to perform any obligation imposed upon you hereunder, then you shall reimburse us for all of our costs, expenses and attorneys' fees in connection therewith.

K. Cumulative Remedies. All rights and remedies conferred upon any party by the terms of this Agreement and by law shall be cumulative and do not exclude any remedies available at law or equity.

L. Governing Law. Except to the extent governed by the United States Trademark Act of 1946 or other federal law, this Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Georgia, which law shall prevail in the event of any conflict of law. You and we expressly agree that this Agreement has been executed and delivered in the State of Georgia, substantial performance of all obligations hereunder was rendered in the State of Georgia and there is a regular stream of business activity between you and us from and into the State of Georgia.

M. Venue. Any litigation arising out of or related to this Agreement including, without limitation, any breach of this Agreement and any and all disputes between the parties, regardless of the form of action, shall be instituted exclusively at our discretion in the state or federal court of general jurisdiction closest to our then-current principal business address. You expressly agree that you are subject to the jurisdiction and venue of those courts for purposes of such litigation. You hereby waive and covenant not to assert any claim that you are not subject to personal jurisdiction in those courts or that venue in those courts is for any reason improper, inconvenient, prejudicial or otherwise inappropriate (including, without limitation, any claim under the judicial doctrine of forum non conveniens). The provisions of this Paragraph 13M shall be self-executing.

N. Waiver of Punitive Damages and Jury Trial. IN NO EVENT WE WILL BE LIABLE TO YOU OR YOUR OWNERS FOR PUNITIVE, EXEMPLARY, AND TREBLE AND OTHER FORMS OF MULTIPLE DAMAGES IN ANY ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT AND YOU AND YOUR OWNERS WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM FOR ANY PUNITIVE, EXEMPLARY, AND TREBLE AND OTHER FORMS OF MULTIPLE DAMAGES AGAINST US. FURTHER, WE AND YOU (AND YOUR OWNERS) IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER US OR YOU.

O. Time is of the Essence. Time is of the essence of this Agreement and all provisions hereof shall be so interpreted.

P. Acknowledgements. You acknowledge that you have conducted an independent investigation of the Hotel System and the business franchised hereunder, including current and potential market conditions, and competitive factors and risks, and recognize that the business venture contemplated by this Agreement involves business risks and that its success will be largely dependent upon your ability as an independent businessperson. We expressly disclaim the making of, and you acknowledge that you have not received or relied on, any warranty or guarantee, express or implied, as to the potential volume, profits, or success of the business venture contemplated by this Agreement, or that otherwise contradicts the information in our FDD.

- (2) You acknowledge that you received our FDD not less than fourteen (14) calendar days prior to the date on which this Agreement was executed.
- (3) You acknowledge that you have read and understand this Agreement, the Attachments hereto, and any agreement relating thereto, and that you have been advised to consult with an attorney or advisor of your own choosing about the potential benefits and risks of entering into this Agreement prior to its execution.
- (4) You acknowledge that any statements, oral or written, by us or our agents preceding the execution of this Agreement were for informational purposes only and do not constitute any representation or warranty by us. Our only representations, warranties and obligations are those specifically set forth in this Agreement. You must not rely on, and the parties do not intend to be bound by, any statement or representation not contained herein.
- (5) You acknowledge that neither we nor any of our officers, directors, employees, or agents, has made, and you have not received or relied upon, any oral or written, visual, express or implied information, representations, assurances, warranties, guarantees, inducements, promises or agreements concerning the actual, average, projected or forecasted franchise sales, revenues, profits, earnings or likelihood of success that you might expect to achieve from operating the Hotel, except as may be set forth in the FDD you reviewed.
- (6) You agree that the information contained on your Application to become a Hawthorn licensee is true, correct and accurate.

Q. Warranties. You represent and warrant to us that neither you (including, without limitation, any and all of your employees, officers, directors, owners, shareholders, members, partners, other representatives and other holders of a direct or indirect ownership interest in you or the Hotel), nor any of your affiliates or the funding sources for either (a) are a person or entity designated with whom we, or any of our affiliates, are prohibited by law from transacting business, (b) are, have been or will be listed on any Government Lists (as defined below), (c) are, have been or will be determined by competent authority to be subject to the prohibitions contained in Presidential Executive Order No. 133224 (Sept. 23, 2001), or any other similar prohibitions contained in the rules and regulations of OFAC (as defined below) or in any enabling legislation or other Presidential Executive Orders in respect thereof, (d) have been or will be indicted for or convicted of any felony involving a crime or crimes of moral turpitude or for any offenses under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the "USA Patriot Act"), (e) are, have been or will be under investigation by any Governmental Authority (as defined below) for alleged criminal activity, or (r) have or have had a

reputation in the community for criminal or unethical behavior. For purposes of this provision, the following definitions apply:

- (1) Government Lists means any of the following lists: (a) the "Specially Designated Nationals and Blocked Persons List" maintained by OFAC, (b) any other list of terrorists, terrorist organizations or narcotics traffickers maintained pursuant to any of the Rules and Regulations of OFAC, or (c) any similar list maintained by the United States Department of State, the United States Department of Commerce or any other Governmental Authority or pursuant to any Executive Order of the President of the United States of America.
- (2) OFAC mean the Office of Foreign Assets Control, United States Department of the Treasury, or any other office, agency or department that succeeds to the duties of OFAC.
- (3) Governmental Authority means all federal, state, county, local, foreign or other governmental or regulatory agencies, authorities (including self-regulatory authorities), instrumentalities, commissions, boards or bodies.

The foregoing representation, warranty and certification shall continue in full force and effect during the term of this Agreement.

14. Special Stipulations.

You acknowledge and agree that the provisions of this Paragraph 14 are confidential and shall not be disclosed by you during the License Term without our prior written consent, except to your officers, partners, shareholders or members or professional advisors who agree to keep these provisions confidential.

A. Conditional Opening. In the situation of the conversion of an existing franchised facility to a Hawthorn Hotel, prior to the installation and display of any Hawthorn indicia or signage and prior to the authorized opening of the hotel as a Hawthorn Hotel, you must submit satisfactory evidence of termination of the current franchise agreement in accordance with applicable legal requirements.

B. You acknowledge that we informed you in our FDD that we are indirectly affiliated with Hyatt Corporation ("Hyatt"). This affiliation does not extend to our Hotel System or our licensees. You further acknowledge and agree that as a Hawthorn Hotel licensee, you do not obtain any right, now or in the future, to use the Hyatt name or to have any affiliation with Hyatt or any of their hotel brands, including franchised or licensed brands they may operate, directly or indirectly. Nothing should be implied or inferred that as a Hawthorn Hotel licensee you will ever have any affiliation with Hyatt. Signing this Agreement with us means that you are committing to operate a Hawthorn Hotel for the term of this Agreement, except as otherwise provided herein.

C. Change of Ownership / PIP Completion Required. Notwithstanding anything contained in Paragraph 8 herein, should Licensee consider a sale of the Hotel to a third party, entity and/or individual(s) with no legal interest in Licensee or the Hotel (the "Third Party"), or should Licensee consider a transfer of greater than fifty percent (50%) of the Hotel's assets to additional investors, members, partners, or shareholders (the "Investors") while maintaining a portion of ownership of the Hotel's assets, Licensee must first complete the Property Improvement Plan ("PIP") attached hereto as Attachment C in its entirety and to our satisfaction prior to our consideration of a franchise application submitted by the Third Party entity or Investors.

D. Royalty Reduction. Notwithstanding anything contained in Paragraph 3 herein, if you are in full compliance with the terms of this Agreement and all other agreements executed with Hawthorn and/or its affiliates and you meet the milestone dates as outlined in Attachment C, you shall be permitted to retain as a marketing assistance for the Hotel 2% of the total amount of Gross Room Revenue payable as monthly Royalty Fee under Paragraph 3.D(3)(a) of the Agreement for the first 24 months of operation following the Opening Date, and 1% of the total amount of Gross Room Revenue payable as monthly Royalty Fee under Paragraph 3.D(3)(a) of the Agreement for months 25 through 36 following the Opening Date. You are required to spend the retained amount on a local basis to market your hotel. Based on this discount, your fee structure for the term of the Agreement shall be:

- a 3% Royalty Fee during years 1 - 2; and
- a 4% Royalty Fee during year 3; and
- a 5% Royalty Fee during year 4 and thereafter.

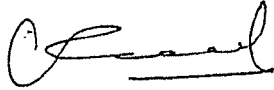
You shall not disclose the terms of this discount other than to an authorized officer or employee or other advisor who agrees to keep this information confidential.

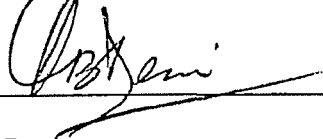
[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first stated above.

LICENSEE:

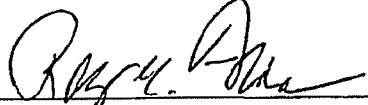
AJAM, INC.

By: 
Upamanyu Raval
President

Attest: 

LICENSOR:

HAWTHORN SUITES FRANCHISING, INC.

By: 
Roy E. Flora
Executive Vice President and
Chief Operating Officer

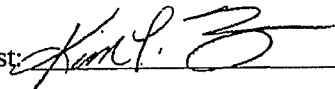
Attest: 

EXHIBIT B

GUARANTY

As an inducement to Hawthorn Suites Franchising, Inc. ("we," "our" or "us") to execute that certain license agreement (including any future amendments thereto) with **AJAM, INC.** ("Licensee") dated as of May 30, 2008, a copy of which is attached hereto, (collectively, the "License Agreement"), each of the undersigned for themselves, their heirs, successors, and assigns, do jointly and severally, hereby absolutely and unconditionally warrant to us and our parent, successors and assigns that all representations of Licensee contained in both the License Agreement and the application submitted in connection therewith are true and correct. The undersigned also jointly and severally agree to be personally bound by each and every covenant, term, condition, agreement and undertaking (including, without limitation, the timely payment and performance of all of Licensee's obligations under the License Agreement), contained and set forth in the License Agreement, and the full and prompt payment of any amounts, costs, expenses, claims, charges or liabilities incurred by us under the License Agreement or this Guaranty, including attorneys' fees and costs, related to the making, performance, or enforcement of the License Agreement or this Guaranty, and agree that this Guaranty shall be construed as though the undersigned and each of them executed agreement(s) containing the identical terms and conditions of the License Agreement.

If more than one person has executed this Guaranty, the term "the undersigned" as used herein, shall refer to each such person, and the liability of each of the undersigned hereunder shall be joint and several and primary as sureties.

The undersigned hereby agree that without the consent of or notice to any of the undersigned and without affecting any of the obligations of the undersigned hereunder: (a) any term, covenant or condition of the License Agreement may be amended, compromised, released or otherwise altered by us and the Licensee, and the undersigned do guarantee and promise to perform all the obligations of the Licensee under the License Agreement as so amended, compromised, released or altered; (b) any guarantor of or party to the License Agreement may be released, substituted or added; (c) any right or remedy under the License Agreement, this Guaranty or any other instrument or agreement between us and the Licensee may be exercised, not exercised, impaired, modified, limited, destroyed or suspended; and (d) we or any other person may deal in any manner with the Licensee, any of the undersigned, any party to the License Agreement or any other person.

Should Licensee be in breach or default under the License Agreement, we may proceed directly against any or each of the undersigned without first proceeding against or notifying the Licensee and without proceeding against any others of the undersigned. Upon notice from us that Licensee has failed to pay monies due and owing to us under the License Agreement, any and each of the undersigned agree to cure any monetary default within five (5) business days from such notice.

Notice to and demand upon Licensee or any of the undersigned shall be deemed notice to or demand upon Licensee and all of the undersigned, and no notice or demand need be made to or upon any or all of the undersigned. The cessation of or release from liability of Licensee or any of the undersigned shall not relieve any other of the undersigned from liability hereunder or under the License Agreement, except to the extent that the breach or default has been remedied or monies owed have been paid.

Upon the death of an undersigned, the estate of such undersigned shall be bound by this Guaranty but only for defaults and obligations hereunder existing at the time of death. The obligations of the surviving undersigned shall continue in full force and effect.

This Guaranty constitutes a guaranty of payment and performance and not of collection, and each of the undersigned specifically waives any obligation we may have to proceed against the Licensee on

any money or property held by the Licensee or by any other person or entity as collateral security, by way of set off or otherwise. The undersigned further agree that this Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time payment or any of the guaranteed obligations is rescinded or must otherwise be restored or returned by us upon the insolvency, bankruptcy or reorganization of the Licensee or any of the undersigned, all as though such payment has not been made.

The undersigned expressly acknowledge that the obligations hereunder survive the termination of the License Agreement.

Any waiver, extension of time or other indulgence granted by us or our agents, successors or assigns, with respect to the License Agreement shall in no way modify or amend this Guaranty which shall be continuing, absolute, unconditional and irrevocable. This Guaranty may be assigned by us voluntarily or by operation of law without reducing or modifying the liability of the undersigned hereunder.

Our failure to enforce all or any portion of our rights under this Guaranty shall not constitute a waiver of our ability to do so at any point in the future.

Any litigation initiated under this Guaranty shall be instituted exclusively at our discretion in the U.S. District Court for the Northern District of Georgia, Atlanta Division or in the Superior Court of DeKalb County, Georgia. The undersigned expressly agree that they are subject to the jurisdiction and venue of those courts for purposes of such litigation. The undersigned hereby waive and covenant never to assert any claim that they are not subject to personal jurisdiction in those courts or that venue in those courts is for any reason improper, inconvenient, prejudicial or otherwise inappropriate (including, without limitation, any claim under the judicial doctrine of forum non conveniens).

Except to the extent governed by federal law, this Guaranty is to be exclusively construed in accordance with and/or governed by the law of the State of Georgia without recourse to Georgia (or any other) choice of law or conflicts of law principles. If, however, any provision of this Guaranty would not be enforceable under the laws of Georgia, and if the business franchised under the License Agreement is located outside of Georgia and the provision would be enforceable under the laws of the state in which the franchised business is located, then the provision (and only that provision) will be interpreted and construed under the laws of that state. Nothing in this Guaranty is intended to invoke the application of any franchise, business opportunity, antitrust, "implied covenant", unfair competition, fiduciary or other doctrine of law of the State of Georgia or any other state, which would not otherwise apply.

If we choose to proceed against the undersigned under this Guaranty, and we prevail, the undersigned shall reimburse us our costs and expenses associated with the litigation, including our reasonable attorneys' fees, court costs and expenses.

The undersigned hereby specifically waives, presentment, notice, notice of protest, demand, notice of dishonor, and notice of default with respect to any obligation set forth in the License Agreement or this Guaranty.

ATTACHMENT A
THE HOTEL

Facilities (Paragraph 1):

Site --- Area and general description: A Hawthorn Suites hotel located at

6101 Trust Drive
Holland, OH 43528

Hotel Designator: "Toledo (Holland)"

The Hotel will be referred to as "Toledo (Holland)" Please bear in mind that our approval of this hotel designator does not grant Licensee a contractual right to use this designator indefinitely. If circumstances or market conditions change, we reserve the right to rescind the approval of this hotel designator at a later date.

Number of approved Guest Suites (Guest Rooms): 96 SUITES

Total: **96**

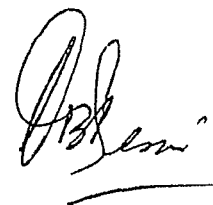
Ownership of Licensee (Paragraph 8):

AJAM, INC.

100%

Upamanyu Raval	40%
Neha Raval	40%
Parimal Shah	10%
Kalpana Shah	10%

Tax Identification Number for AJAM INC.: 95-4883262



ATTACHMENT B
TERRITORY
Toledo (Holland), OH / #4910

The Territory is defined as that area falling within a 5-mile radius of the Hotel, with the Hotel as the center point.

ATTACHMENT C

THE WORK

You acknowledge that every detail of the Hotel System is important to us and other licensees operating under the Hotel System to develop and maintain the standards and public image of the Hotel System. You agree to strictly comply with the details of the Hotel System, as set forth in the Manual or otherwise in writing. You must bear the entire cost of the development and construction of the Hotel including, without limitation, professional services, financing, insurance, licensing, contractors, permits, equipment and furnishings. The following constitutes the development schedule for the Hotel.

A. Conversion of an Existing Facility

1) You shall submit a copy of the recorded deed, executed lease agreement or other documentary evidence satisfactory to us indicating you have fee simple title or a leasehold agreement relative to the Hotel site on or before sixty (60) days from the date of this Agreement. Failure to do so shall constitute a default under the terms of this Agreement.

2) You agree to renovate the Hotel in strict accordance with, and within the time frames set forth on, the attached property improvement plan ("PIP") or in accordance with your renovation plans. If requested by us, you agree to submit your renovation plans for the Hotel for our approval. If we require you to submit your renovation plans, renovations shall not begin until we approve the renovation plans in writing. Once we approve the renovation plans, you agree not to make any subsequent changes without our prior written consent. Our approval of your renovation plans is exclusively for the purpose of ensuring compliance with our then-current standards. Your failure to renovate the Hotel in strict accordance with the PIP and within the specified time frames shall constitute a material breach of this Agreement and may lead to us issuing a default notice and subsequently terminating this Agreement. Commencement of renovation shall mean the beginning of any site work at the Hotel.

3) The Hotel shall be ready to open for business not later than six (6) months from the date hereof, unless otherwise provided in the PIP ("Completion Date"). Within ten (10) days of the Completion Date you shall ask us to conduct a final inspection, which we shall promptly conduct. You shall not open for business prior to our written authorization to do so, and you agree to open within ten (10) days of our authorization. We will not authorize you to open the Hotel unless and until you are in full compliance with all terms of this Agreement. Prior to the Opening Date of the Hotel, you must submit to us written certification that the Hotel is in compliance with the approved plans and specifications prepared by the architect and that the Hotel was constructed in compliance with our Hotel System standards, and is in compliance with all applicable federal, state or local laws, rules, ordinances and requirements.

The following items must be completed prior to opening as a Hawthorn Suites:

OPERATIONS AND SAFETY & SECURITY

- Provide new owner/operator signage at front desk and at swimming pool area
- New Owner must contact MSI to process change of ownership requirements for MSI WinPM Property Management Systems
- New Owner must contact Perot Systems to process change of ownership requirements for TACS, our Travel Agency Central Pay System
- Replace all Studio 6 signage and supplies with required Hawthorn signage in all areas (Building, parking lot, lobby, breakfast area, meeting room, guest laundry, exercise room, swimming pool area,

guest suites room number and directional signage throughout public space to comply with Hawthorn Suites Standards

- Confirm all areas of the hotel, guest suites and public areas have free hard wired and wireless Ethernet access to the Internet
- Ensure all Hyatt Gold Passport materials are on display and staff is trained to process enrollments, stays and awards
- Confirm all Hawthorn Suites complimentary hot breakfast buffet and evening Social Hour items meet brand standards
- Hotel must ensure all team members have completed ADA training and that the hotel has a Little People's Accessibility Kit available
- New General Manager and Director of Sales must attend Hawthorn Suites Advantage tentatively for May and October of 2008

EXTERIOR AREAS

- Remove broken bench in front of building 10
- Inspect and replace all damaged stairwell risers, steps, landings, and railings throughout all buildings. It was noted that in some areas the wood is rotting and will need to be replaced. Once completed then paint.
- Inspect and repair all damaged 2nd floor balconies. It was noted that some of the platform beams were starting too dry rot. Noted in room 422
- Clean and refresh landscaping around the building to improve curb appeal
- Ensure all exterior parking lot lighting is in proper working order
- Contact pest control to remove all the bee/wasp hives located by the rooflines over the balconies and the entrances of buildings
- Repair or replace doors to outdoor storage building and repaint. Remove pool deck furniture located between the storage building and fence

COMMERCIAL (INTERIOR) AREAS

Lobby and Breakfast room

- Replace all carpet to include the lobby, breakfast room area, back office area, stairs leading to the second level where the sales office is located, meeting room and business center

Ladies Restroom

- Secure mirror properly to wall. Loose and ready to fall
- Repair or replace any wallpaper pulling from wall

Guest Laundry

- Install fire extinguisher in room
- Replace vinyl flooring with ceramic tile to meet Hawthorn standards
- Replace wall behind washers. Currently has plastic vinyl covering holes.

Maintenance

- Clean and organize maintenance area
- Restock first aid kit
- Eye wash stations needs to be added to room

Exercise Room

- Replace 26" set in exercise room television with a minimum 26" flat panel set to meet new Hawthorn standards

Pool Area

- Complete renovations in the pool area. To include the resurfacing, painting and completing tile work in the pool and spa.
- Clean and organize area and set up pool/spa area to meet hawthorn standards.
- Ensure safety equipment is in place to meet hawthorn standards
- Ensure appropriate signage is in place to meet hawthorn standards

GUEST SUITES BED/BATH/KITCHEN

- Ensure the patios on the ground levels are in good condition. In room 514 the cement floor is cracked and crumbling
- Ensure in all ADA suites the plumbing is rapped in the guest bathrooms
- Ensure in all ADA suites the drapery has the "O" ring drapery wand pulls
- Eliminate any Studio 6 Suites supplies and replace with approved Hawthorn logo'd items, including but not limited to all: pens, pads, cups, telephone faceplates, evacuation map and law/tariff card, soaps, etc.
- Install required Hawthorn in-room signage for Appliances turned off, Microwave, Mother Earth, etc. See standards manual for exact wording
- Installation of Hawthorn Suites' new "Sweet Suite Bedding Package" including new bed linen, pillows and pillow shams, duvet sheets, bed scarf and signature Hawthorn Suites (logo) accent pillows
- Complete ceramic tiling installation in all guestrooms. Currently 8 rooms have been done
- Replace worn vinyl flooring in all guestroom kitchens and replace with ceramic tile to meet hawthorn standards
- Replace all guestroom carpet
- Complete the painting of interior walls in the guestrooms
- Note: Replacement of televisions is not required at this time, however it is strongly recommended that as need requires, television sets are replaced with a digitally compatible 32" flat panel television in guest suite living area. A minimum 26" flat panel may be used in bedroom area for one and two bedroom suites
- It is recommended that as towels are replaced, they should be replaced with white instead of vanilla, in order to match the new bedding package

The following items must be completed within SIX months of opening as a Hawthorn Suites:

EXTERIOR AREAS

- Replace damaged sections of parking lot, especially near dumpster. Resealcoat and restripe
- Repair all exterior finish throughout all buildings. Most noted are the chimneystacks and the stucco is pulling away from the building. The damage is noticed on all of the buildings
- Repair or replace all dry-rot trim and paint on the buildings. To include trim around guest room windows next to the entrance of the room
- Replace all rusted light fixtures next to the entrance to the room. Noted by room 311
- Repair down spout by room 111
- Repair or replace all rusted guestroom doors and frames. Bottoms of the doors were rusted through. Ensure that all fire safety seals are in tact "noted in room 912, 311, 122
- Repair or replace falling fence around the perimeter of the property
- Repair cracked sidewalks around the buildings "noted in front of 514
- Clean gutters of debris. Noted on Building 1 by 114

GUEST SUITES BED/BATH/KITCHEN

- Replace all smoked sliding glass doors to balconies "noted in room 1124"
- Refinish or replace all worn guestroom furniture
- Replace all guestroom sofa's and chairs
- Replace drapery and shears throughout building
- Refinish or replace all worn kitchen cabinets in guestroom kitchen
- Ensure all guestroom appliances are in working order

It is the licensee's responsibility to ensure compliance with the Americans with Disabilities Act (ADA). Analysis of the ADA impact on a particular hotel is not contained within the scope of this Property Improvement Plan (PIP). Therefore, legal counsel, architects, and/or other necessary advisors should be consulted prior to implementation of any ADA related work. As an additional source of reference, you may refer to Appendix A, Americans with Disabilities Act, of the Hawthorn Suites Standards Manual.

This PIP is valid for three months from the date of its origination. Should execution of the license agreement occur after three months from the date of this PIP, the requirements and timeframes contained within may be subject to revision.

The finished product must comply with the applicable brand's Design and Construction requirements as well as meet all standards contained in the Hawthorn Suites Standards Manual.

This PIP has been prepared on the basis of a random sample inspection. The owner is responsible for meeting ALL brand standards and specifications that are not mentioned in this PIP throughout the hotel.

ATTACHMENT D
ELECTRONIC FUND TRANSFER AUTHORIZATION

AJAM, INC. ("Franchisee", "Licensee") hereby authorizes and requests Hawthorn Suites Franchising, Inc. to initiate debit and credit entries to Licensee's bank account indicated below drawn by and payable to the order of Hawthorn Suites Franchising, Inc. ("HSF/Licensor") by Electronic Fund Transfer ("EFT").

EFT is hereby authorized for all amounts currently or hereafter due HSF/Licensor.

Licensee acknowledges and agrees that the Licensor's rights with respect to each such charge shall be the same as if it were a check drawn by the Licensor and signed by Licensee.

Facility ID Number: **4910** License ID Number: **5453**

Licensee Name: **AJAM, INC.**

Name on Account (if different): **AJAM INC, DBA Studio 6 of Holland**

City: **Artesia** State: **CA** Zip Code: **90701**

Account Type (Checking) ☒

Transit/ABA Number: _____ Account Number: _____

Bank Name: **Hanmi Bank**

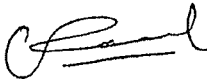
Bank Address: **11754 E. Artesia Blvd.** Bank Phone Number: **562-658-0121**
Artesia, CA - 90701

This authority shall remain in full force and effect until the Licensee's obligations to HSF/Licensor as described above shall have been satisfied, or an alternative authorization acceptable to HSF/Licensor is provided to HSF/Licensor. In the event sufficient funds are not available from Licensee's account on a scheduled date of transfer, HSF/Licensor will re-attempt the funds transfer.

Invoices and EFT related statements can be sent to the following individuals at the given email addresses:

Name	Phone Number	Email Address
_____	_____	_____
_____	_____	_____
_____	_____	_____

(If you have Anti-SPAM software, please insure that emails from Hawthorn.acct@hyattselect.com are not blocked)

Signed by Licensee: 

(Signature)

Olamanyo Raval

(Print Name)

(Date Signed) **5/27**, 200**8**

Fora18@Aol.com

(Your Email Address)

949-280-6342

(Phone Number)

(For EFT related correspondence and to confirm changes of emails as given above)

Please attach a voided blank check, for purpose of setting up Bank and Transit Numbers.

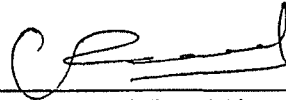
The undersigned hereby specifically waives any rights that may be conferred by Official Code of Georgia Annotated Sections 10-7-23 and 10-7-24 or any similar provision of the applicable law of any other state.

IN WITNESS WHEREOF, each of the undersigned has executed and delivered this Guaranty as of the date of the License Agreement.

Witness:

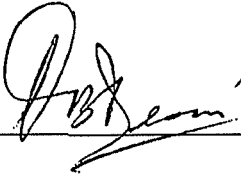


Guarantor:



Upamanyu Raval, Legal Signature
Address: 32 Deerborn Drive,
Aliso Viejo CA - 92656
Telephone No.: 949-280-6342
Social Security REDACTED

Witness:

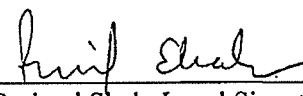




Neha Raval, Legal Signature
Address: 32 Deerborn Drive
Aliso Viejo CA 92656
Telephone No.: 949-370-5784
Social Security N REDACTED

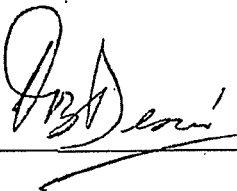
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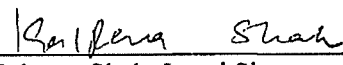




Parimal Shah, Legal Signature
Address: 12510 YOSEMITE ST
CERRITOS CA 90703
Telephone No.: 362 924 5422
Social Security No REDACTED

Witness:





Kalpana Shah, Legal Signature
Address: 12510 YOSEMITE ST
CERRITOS CA 90703
Telephone No.: 522 924 5422
Social Security REDACTED