

# EXHIBIT D

## BREA LEASE

THIS LEASE, executed and dated as of the \_\_\_\_ day of \_\_\_\_\_, 2017 by and between BREA PROPCO LLC, a Delaware limited liability company ("Lessor"), and BREA OPCO LLC, a Delaware limited liability company ("Lessee")

### WITNESSES THAT:

WHEREAS, Lessor is the owner of that certain real property located in Orange County, California and more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, together with all buildings, structures and other improvements located thereon, and all rights, privileges and easements appertaining thereto, currently operated as a hotel commonly known as Brea Embassy Suites located at 900 E. Birth St., Brea, California 92821 ("Hotel"); and

WHEREAS, Lessor has agreed to lease to Lessee, and Lessee has agreed to lease from Lessor, the Hotel, the parking lots and/or parking structures serving the Hotel and all of the Lessor's furnishings, equipment and other tangible personal property located at the Hotels other than inventory and consumables and currently used in connection with the operation of the respective Hotels (hereinafter referred to as the "Lessor Personal Property") (the Hotel and Lessor Personal Property being collectively referred to herein as the "Leased Property"); and

WHEREAS, Lessor and Lessee now desire to enter into this lease of the Leased Property ("Lease") upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual undertakings and covenants hereinafter contained and the acts to be performed hereunder, Lessor and Lessee hereby enter into this Lease, upon the following terms and conditions, effective as of \_\_\_\_\_ (the "Effective Date"):

## ARTICLE I

### Leased Property and Term

Section 1.1 Leased Property. Lessor hereby demises and leases to Lessee, and Lessee hereby leases and takes from Lessor, the Leased Property.

Section 1.2 Term. The term of this Lease shall commence on the Effective Date and shall continue until 11:59 p.m. on the last day of \_\_\_\_\_, 2032 (the "Initial Term"). Provided that there is no uncured default of Lessee outstanding at the time Lessee gives notice or at the expiration of the Initial Term, Lessee shall have the option to extend the Initial Term for one extension term of 10 years upon six months notice to Lessor ("Extended Term", and together with the Initial Term being hereinafter referred to as the "Term").

Section 1.3 Termination Event. This Lease shall terminate upon termination of Lessor's leasehold interest in the Hotel.

## ARTICLE II

### Rental

Section 2.1 Base Rental for Leased Property. Lessee shall pay, without notice or demand, and, except as provided herein to the contrary, without any abatement, deduction or setoff, monthly base rent for the Leased Property during the Term the amount set forth in Section 2.2 below (hereinafter referred to as the "Base Rental"), payable in advance on the first day of each month commencing on the Effective Date and continuing thereafter on the first day of each succeeding month throughout the Term. The Base Rental for any month during the Term which begins or ends on other than the first or last calendar day of a calendar month shall be prorated based on actual days elapsed.

Section 2.2 Base Rental Amounts. Base Rental shall be: \$\_\_\_\_\_ per month for the initial 12 months, increasing by 2% on the first anniversary of the Effective Date and on each succeeding anniversary of the Effective Date. In the event Lessee elects to extend the Term hereof, the monthly base rent will increase as of the first month of the Extended Term to an amount equal to the Base Rental for the initial 12 months of the Initial Term multiplied by a fraction, the numerator of which is the consumer price index published during the calendar month preceding the first month of the Extended Term, and the denominator of which is the consumer price index published during the calendar month preceding the first month of the Initial Term.

No payment by Lessee, or receipt or acceptance by Lessor, of a lesser amount than the correct Rent shall be deemed to be other than a payment on account, nor shall any endorsement or statement on any check or letter accompanying any payment be deemed an accord or satisfaction, and Lessor may accept such payment without prejudice to its right to recover the balance due or to pursue any other remedy available to Lessor.

Section 2.3 Additional Rent (Taxes and Insurance): Lessee will pay as additional rent each month an amount equal to 1/12 of the annual property taxes and insurance premiums for the Leased Property, as reasonably calculated by Lessor. Provided that Lessee has made such payments, Lessor will be responsible for paying all property taxes to the taxing authorities and premiums for insurance on the Leased Property.

Section 2.4 Payment of Rental. All rental payments shall be made to Lessor at c/o Windsor Capital Group, Inc., 3250 Ocean Park Boulevard, Suite 350, Santa Monica, CA 90405 or to such other person, firm or corporation at such other address as Lessor may designate by notice in writing to Lessee. If Lessee fails to pay to Lessor any amount due hereunder within five (5) days after the date such payment is due, Lessee shall pay a late payment fee in the amount of five percent (5%) of the delinquent payment. Further, after such five (5) day period has expired, if such payment is still not made, Lessor may notify Lessee in writing of such non-payment and if such payment is not made within three (3)

business days after written notice of late payment has been given to Lessee by Lessor, Lessee shall additionally pay interest at the rate of the prime interest rate plus 600 basis points to a maximum of ten percent (10%) per annum beginning on the expiration of such three (3) day period on all amounts hereunder which were not paid until such amounts are paid, together with costs of collection and reasonable attorneys' fees.

Section 2.5 Net Lease. In addition to the Base Rental amount, Lessee shall pay all costs, expenses and obligations of every kind whatsoever relating to the real property which may arise or become due during the Term of this Lease, including, but not limited to insurance, taxes, and maintenance costs, except for any principal and interest payments due with respect to any mortgage on the real property and except as otherwise provided in Section 2.6; without limiting the generality of the foregoing, the costs of insurance and property taxes as described in Sections 4.1 and 4.3 shall be paid by Lessee to Lessor as additional rent, as described in Section 2.3 above, for payment by Lessor to the applicable insurers and taxing authorities. Lessee does hereby agree to indemnify, defend and hold harmless Lessor against any such costs, expenses and obligations.

Section 2.6 Reserves. A portion of each monthly installment of Base Rental will be held by Lessor (or Lessor's mortgagee) in a segregated reserve account. In addition, commencing in January 2018 Lessee will pay to Lessor each calendar month, in addition to Base Rental, for deposit in the reserve account, an amount equal to 1/12 of 4% of the excess of budgeted total operating revenues for the current calendar year over the actual total operating revenues for calendar year 2017, subject to truing up at the end of each calendar year so as to equal 4% of the amount by which actual total operating revenues for the year just ended exceeded total operating revenues for calendar year 2017. Funds in the reserve account, to the extent that Lessor's lenders hold or control such account and are required to make the same available for the payment of FF&E expenditures under the applicable loan agreements, will be made available to Lessee to pay for capital improvements and repair and replacement of improvements and FF&E in accordance with the annual budget prepared by Lessee and approved by Lessor or, in cases of emergency, with the approval of Lessor. In the event the amount of funds in the reserve account is insufficient to pay for the FF&E expenditures, Lessee shall supplement the available funds at its own expense.

Renovation work pursuant to any Property Improvement Plan required by any franchisor of Lessee that was created prior to the Effective Date ("PIP Work") shall be performed by Lessee and paid for with funds made available from the FF&E reserve account as described above and/or funds loaned to Lessor by Lessor's lenders for that purpose and made available to Lessee. In the event the amount of funds in the reserve account plus funds loaned to Lessor by its lenders for the execution of PIP Work is insufficient to pay for the PIP Work, Lessee shall supplement the available funds at its own expense.

Renovation work pursuant to any Property Improvement Plan required by any franchisor of

Lessee in the future in addition to the PIP Work ("Additional Work") shall be performed by Lessee and paid for to the extent available with funds from the FF&E reserve account. If it is not possible to pay for the Additional Work with funds from the FF&E reserve account, Lessor will fund the execution of the Additional Work from its own sources or from external capital and/or borrowings, subject to Lessor's prior approval.

### ARTICLE III

#### Acceptance, Use and Maintenance of the Leased Property

Section 3.1 Acceptance by Lessee. Lessee has inspected the Leased Property to its satisfaction. Lessee accepts the Leased Property in its current condition and understands that Lessor is delivering possession of the Leased Property as of the commencement date on an AS IS basis without responsibility for any defects or deficiencies; provided, however, that Lessor warrants that the premises are fit for their intended purpose as a hotel and that the physical plant is compliant with applicable health and safety regulations. Except for the foregoing, or as expressly set forth elsewhere herein, Lessor makes no other warranty, express or implied, relative to the condition of the Leased Property; however, Lessee shall have the full benefit of any and all warranties of any manufacturer or seller of equipment or fixtures constituting a part of the Leased Property.

Section 3.2 Occupancy and Use. Lessee shall use the Leased Property for the sole purpose of the operation of a hotel and related activities and services in full compliance with all applicable statutes, ordinances, rules and regulations of any governmental authorities having jurisdiction. Lessor warrants, to Lessor's knowledge, that such uses comply in all material respects with applicable zoning and land use laws. No other use will be permitted without the prior written consent of Lessor (which consent shall not be unreasonably withheld). Lessee shall maintain, at its expense, all licenses and permits necessary for the conduct of business as a hotel. Notwithstanding anything in the Lease to the contrary, the failure or inability of Lessee to operate in the Hotel at any time during the Term, unless due solely to a breach or default by Lessor of its express obligations hereunder, shall not excuse Lessee's performance under this Lease, and Lessee shall continue to perform all of its obligations under this Lease, including the timely payment of all amounts due hereunder.

Section 3.3 Maintenance. It is the intent of the parties that Lessor shall not have any maintenance obligations at the Leased Property; and Lessee shall, at Lessee's sole cost and expense, have all such obligations, and shall use its best efforts at all times to maintain the Leased Property in good condition and repair, such obligation to include providing all maintenance, repair and/or replacement of the Leased Property (consistent with the best practices of other owners and operators of similar hotels) to maintain the Leased Property in good condition and repair, including, without limitation, making such capital improvements as are necessary to maintain the Leased Property in good condition and repair. By way of illustration and not by way of limitation, Lessee shall maintain the foundation, structural

components or portions of the Leased Property, the air conditioning and heating equipment, all plumbing and electrical systems serving the Hotel, the interior and exterior components of the Hotel including the walls and roof of the Leased Property in good condition and repair at all times. Lessee shall also maintain the exterior painted surfaces, parking areas and grounds (to include striping and paving the same), the interior and the mechanical equipment of the Leased Property in good condition and repair and in a neat and orderly condition at all times. Maintenance of mechanical equipment by Lessee shall include electrical and plumbing, kitchen equipment, floor coverings, light fixtures, air conditioning and heating equipment and systems, floor drains and glass. Lessee shall, at Lessee's sole expense, also maintain the Lessor Personal Property (including any personal property, equipment and/or supplies acquired after the Effective Date hereof which are used in the operation of the Hotel) in good condition and repair at all times, including, without limitation, to replace each item thereof with like quality property in the event of casualty or damage or because such item has reached the end of its useful life. At the end of the Term, Lessee will return the Leased Property to Lessor in good condition, subject to wear and tear from ordinary and reasonable use.

Section 3.4 Additional Equipment and Alterations. With Lessor's prior written approval thereof, Lessee may purchase and install equipment ("Additional Equipment") which it deems necessary for the proper conduct of its business, such Additional Equipment to be considered a part of, and included with, the Lessor Personal Property. Upon the expiration or earlier termination of this Lease, Lessor shall be deemed the owner of all such Additional Equipment and all such Additional Equipment shall remain in, and a part of, the Leased Property, and shall be, or become, the property of Lessor. In addition, Lessee shall have the right, with Lessor's prior written approval, which approval may be granted or denied in Lessor's sole and absolute discretion, at its sole cost and expense to make structural additions to the exterior of the Hotel or alterations, additions or improvements to the interior of the Hotel which are deemed by Lessee to be appropriate for the conduct of its business subject to the following conditions: (i) any of the foregoing do not adversely affect the structural integrity or diminish the value of the Leased Property; (ii) financing of any of the foregoing by Lessee will be based upon its general credit and/or its leasehold interest, and without any lien upon the fee of the Hotel; and (iii) full indemnification of Lessor by Lessee against any cost or expense, including reasonable attorneys' fees, resulting from or in connection with the construction work and evidence satisfactory to Lessor as to full insurance coverage; provided, however, Lessor shall not deny or delay approval of any such work required by Lessee's franchisor or any of Lessee's lenders. If Lessee shall so construct any such structural exterior additions or make any such interior alterations, additions or improvements, all at no cost to Lessor, no additional rental for the same shall be payable by Lessee to Lessor. Any such additions, alterations or improvements shall, upon the termination of this Lease, become the property of Lessor without the payment of consideration to Lessee.

Section 3.5 Waste. Lessee shall neither commit, nor permit the commission of waste upon or against the Leased Property (ordinary wear and tear and casualty caused by matters not covered or required to be covered by the required fire and extended coverages insurance excepted) and the reasonable expense of any damage not covered or required to be covered by the required fire and extended coverages insurance to the Leased Property or any area common thereto which is caused by the acts or omissions of the Lessee, its employees, agents, patients or invitees shall be charged to Lessee and payable upon demand.

Section 3.6 Utilities. All utility services, including heat, air-conditioning, hot and cold water, telephones, cable or satellite TV, internet access, gas and electricity, shall be furnished to and maintained at the expense of Lessee.

Section 3.7 Right of Entry for Inspection and Repairs. Lessor shall have the right to enter upon the Hotel for the purpose of inspection or making of such improvements, repairs, and alterations of the Leased Property as Lessor may deem necessary or advisable. At any time within the six (6) month period immediately preceding the expiration of the Term or within the period preceding vacation by Lessee after notice of termination, Lessor may show the Leased Property to other prospective lessees. Prior to Lessor commencing any major repairs, improvements or alterations to the Leased Property, Lessor shall procure Lessee's prior written consent thereto, such consent not to be unreasonably withheld, delayed or conditioned (provided, if Lessee does not respond to Lessor's request for consent within ten (10) business days of written request therefore, Lessee shall be deemed to have consented to the same) and, once such work commences, Lessor shall, if reasonably possible, perform such work at such time or times as will, to the extent commercially reasonable, minimize interference with the operations of Lessee. The exercise of any right reserved hereunder by Lessor shall not operate as a constructive eviction or disturbance of Lessee's use and possession of the Leased Property. Lessor shall indemnify, protect and defend Lessee and its licensees, agents, employees and representatives from and against any liability or claim, including attorneys' fees, arising out of or related to the negligence or willful misconduct of Lessor or any person or party acting by, through or under Lessor while present at the Hotel.

Section 3.8 Signs. Upon receipt of Lessor's prior written approval thereof, such approval not to be unreasonably withheld, Lessee at its own expense may erect such signs, posters or other advertising devices on or about the Leased Property as Lessee deems necessary for the conduct of its business, but such signs, posters or other advertising devices are subject to compliance with all applicable zoning laws.

Section 3.9 Liens. Both parties agree not to permit any lien to become attached to or filed against the Leased Property, and to indemnify, defend and save harmless the other party against any cost, expense or liability, including reasonable attorneys' fees, in connection with the discharge of any such lien.

Section 3.10 Assumption of Risk. Except as related to the negligence or misconduct of Lessor or any party acting by, through or under Lessor, Lessee assumes the risk of loss to the Leased Property and all of Lessee's property located upon the Leased Property, and Lessor shall not be liable to the Lessee, its agents, employees, patients, guests or invitees, for injury to the person or for loss or damage to such property, including that arising from theft, vandalism or casualty, occurring upon the Leased Property.

Section 3.11 Hazardous Materials. Lessor warrants that there are no Hazardous Materials presently on site at the Hotel. Lessee agrees not to use, generate, handle, store or dispose of Hazardous Materials in, on or under the Hotel, or dispose of Hazardous Materials from the Hotel to any other location without the prior written consent of Lessor, which consent may be withheld in Lessors sole discretion, and then only in compliance with the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901 et seq., and all other applicable laws, ordinances and regulations; provided, however, Lessee may use any ordinary and customary cleaning supplies and other materials reasonably required to be used in the course of operating a hotel, so long as such use is in compliance with applicable Environmental Laws and does not expose the Leased Property to any meaningful risk of contamination. Lessee shall immediately notify Lessor of any incident that would require the filing of a notice under applicable federal, state, or local law. Except as otherwise provided herein, any use of Hazardous Materials in, on or under the Hotel shall not commence until all permits required therefor have been obtained by Lessee and thereafter Lessee shall provide to Lessor on an annual basis Lessee's certification that all such permits have been renewed with copies of such renewed permits. As used herein, "Hazardous Materials" shall mean and include, but shall not be limited to, any petroleum product and all hazardous or toxic substances or wastes including any asbestos-containing materials, waste oils, solvents and chlorinated oils, polychlorinated biphenyls (PCBs), or substances that are included under or regulated by any federal, state or local law, rule or regulation (whether now existing or hereafter enacted or promulgated, as they may be amended from time to time) pertaining to the environment, contamination or clean-up (all such laws, rules and regulations being referred to collectively as the "Environmental Laws"), including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 and regulations adopted pursuant thereto. Lessee shall indemnify, defend upon demand and hold Lessor harmless from and against, any liabilities, losses, claims, damages, interest, penalties, fines, attorneys' fees, experts' fees, court costs, remediation costs, and other expenses which result from the use, storage, handling, treatment, transportation, release, threat of release or disposal of Hazardous Materials in, on, under or about the Hotel by Lessee or Lessee's agents, employees, contractors or invitees. Lessor shall indemnify, defend upon demand and hold Lessee harmless from and against, any liabilities, losses, claims, damages, interest, penalties, fines, attorneys' fees, experts' fees, court costs, remediation costs, and other expenses which result from the use, storage, handling, treatment, transportation, release, threat of release or disposal, occurring prior to, during, or after the term of this Agreement, of Hazardous Materials in, on, under or about the Hotel by Lessor or Lessor's agents, employees, contractors or invitees. Lessee shall

notify Lessor of any release, or threat of release, of Hazardous Materials in, on, under or about the Hotel, whether or not such release is subject to reporting requirements under any Environmental Laws. Lessee shall, at its expense, be responsible for all monitoring, testing and/or remediation required in connection with a release of Hazardous Materials. The provisions of this Section 3.11 shall survive the expiration or earlier termination of this Lease.

## ARTICLE IV

### Taxes Assessments Indemnification and Insurance

Section 4.1 Taxes and Assessments. Lessee shall pay to Lessor as additional rent, in monthly installments as described in Section 2.3, an amount sufficient for the payment of any and all property taxes and assessments (including without limitation, ad valorem real property taxes and assessments and all personal property taxes due during the Term) against the Leased Property, first payable on or after the Effective Date of this Lease and which are payable at any time during the Term. In addition, Lessee shall pay all other taxes and other charges (excepting net or gross income taxes) which hereafter may be (and are not now) levied or assessed on the Leased Property or may be levied or assessed in lieu of real property taxes and are first payable during the term. If the Effective Date is not January 1 or if the date of Termination is not December 31, the amount of taxes, assessments and charges for which Lessee shall be responsible for that year shall be prorated on the basis of the number of days during which Lessee occupied the Leased Property for that year. Upon request by either party, the other party shall promptly furnish to the requesting party or its designated agents for inspection and use as may be appropriate copies of assessments, notices and receipts as to the assessment and payment of such taxes. Lessor and Lessee shall mutually cooperate to contest by appropriate procedures any increased assessment or any increase in the amount of real estate taxes, personal property taxes or the validity of any such taxes and the expense of any such contest shall be paid by Lessee.

Section 4.2 Indemnification. Lessee covenants and agrees that Lessor shall not be liable for any injuries, losses or damages to persons or property from any cause whatsoever by reason of the use, occupation, control or enjoyment of the Leased Property, by Lessee, or any person invited, suffered or permitted by Lessee to go or be thereon or holding under Lessee at any time during the Term of this Lease, and Lessee will save and hold harmless Lessor from and against any and all liability, penalties, damages, losses, actions, causes of action, expenses and judgments whatsoever on account of such injuries, losses or damages. The injuries, losses and damages referred to in this paragraph shall include, without limiting the generality of the preceding provisions, injuries, damages, losses, actions, causes of action and mechanic's liens arising directly or indirectly out of any acts or omissions of Lessee, or Lessee's employees, agents, contractors or invitees, including without limitation, any losses, damages, injuries or claims accruing or arising during the Term. Lessee, at no expense to Lessor, agrees to employ legal counsel to defend any action



for which any claim shall be made for injuries or damages commenced against Lessor by reason of the foregoing.

Lessor covenants and agrees that Lessee shall not be liable for any injuries, losses or damages to persons or property due to Lessor's negligence or willful misconduct, and Lessor will save and hold harmless Lessee from and against any and all liability, penalties, damages, losses, actions, causes of action, expenses and judgments whatsoever on account of such injuries, losses or damages. The injuries, losses and damages referred to in this paragraph shall include, without limiting the generality of the preceding provisions, injuries, damages, losses, actions, causes of action and mechanic's liens arising directly or indirectly out of any acts or omissions of Lessor, or Lessor's employees, agents, contractors or invitees, including without limitation, any losses, damages, injuries or claims accruing or arising during the Term. Lessor, at no expense to Lessee, agrees to employ legal counsel to defend any action for which any claim shall be made for injuries or damages commenced against Lessee by reason of the foregoing.

Section 4.3 Insurance. Lessor shall purchase and maintain in force at all times during the term of this Lease fire and extended coverage insurance on the Leased Property (with, as to the Hotel, an endorsement specifically providing for the replacement cost necessary to rebuild or restore the Hotel in accordance with then existing fire, building and other codes then in existence), with such deductibles as Lessor deems appropriate, written by responsible insurers in an amount equal to the replacement value of the Leased Property (to include the Hotel and Lessor Personal Property), such insurance coverage shall be for the benefit of Lessor, Lessee and any mortgagee of Lessor, as their respective interests may appear. Lessor shall have the right to settle or otherwise compromise any claims made under the insurance policies required to be carried hereunder. Lessor shall furnish proof of such coverage to Lessee upon request. Lessor shall purchase and maintain in force at all times during the term of this Lease public liability insurance which shall insure against loss, cost or expense by reason of injury to or the death of persons or damage to or the destruction of property caused by the occupancy and use of the Leased Property by Lessee or Lessor such insurance to be carried with a responsible insurer reasonably acceptable to Lessor; and including business interruption insurance in an amount sufficient to pay the rental due under this Lease in the event of a complete business interruption for a period of up to twelve (12) months. Any and all insurance policies evidencing fire and extended coverage shall include waivers of subrogation rights. Lessor and Lessee shall be named as co-insureds under liability insurance coverage. In this regard, Lessor and Lessee hereby waive as to each other any right of recovery from the other (but not as to an insurer) in the event of loss or damage covered by insurance upon or relating to the Leased Property or any other property owned by either Lessor or Lessee and agree that no insurer shall hold any right of subrogation over or against such other party in the event of loss or damage covered by insurance.

Notwithstanding the foregoing, if any of the insurance requirements of any institutional lender which as of the date hereof holds a first mortgage on the Hotel, are more

stringent that the insurance requirements set forth above, Lessor and Lessee, as applicable, shall comply with all of the insurance requirements of such institutional lender. Each policy carried hereunder shall contain an endorsement providing that such policy or policies shall not expire, be cancelled or otherwise terminated without the insurer providing at least thirty (30) days prior written notice thereof to each named insured or loss payee.

## ARTICLE V

### Assignment and Subletting

Section 5.1 Assignment by Lessee. Lessee may not assign, sell, pledge or otherwise encumber, voluntarily or involuntarily, any of its rights or interests under this Lease without the prior written consent of Lessor, which consent may be denied by Lessor in its sole discretion; provided, however, Lessor may only disapprove an assignment or transfer by Lessee of its rights and interests under this Lease to a legal entity controlled by, Controlling, Or under common control with Lessee for reasons that are reasonable, such as lack of financial ability.

Lessee understands that, in addition to the requirement of Lessee to procure Lessor's prior written approval of any assignment by Lessee of this Lease, any such assignment(s) may require the approval of Lessor's mortgagee as a condition to the effectiveness of such assignment. In the event of any assignment by Lessee, Lessee shall remain primarily liable to Lessor for the full performance of the duties and obligations of Lessee under this Lease.

Section 5.2 Assignment by Lessor. In the event Lessor assigns or otherwise transfers any of its rights or interests in the Leased Property or under this Lease, or in the event of a change in control of the direct or indirect interests in Lessor, such assignment, transfer or change in control shall not occur or be effective without first consulting with and obtaining the prior written consent of Lessee, which consent may not be unreasonably withheld (for example, Lessee may decline to consent to an assignment, transfer or change in control on the basis of lack of financial ability on the part of the transferee); provided that, as conditions to such consent Lessor's assignee or transferee shall assume Lessor's obligations hereunder in writing, enter into a non-disturbance agreement with Lessee reasonable in form and substance, and if assignee, transferee, or any new controlling interest-holder deems Lessee to be in default of this Lease at the time, notify Lessee in writing of such claimed default and allow Lessee a reasonable period of time within which to cure such claimed default.

In the event Lessor sells or otherwise transfers any of its interest in the Leased Property or under this Lease, or the direct or indirect ownership interest therein, Lessee will have the right to terminate this Lease effective as of the date of sale or other transfer.

Section 5.3 Subletting by Lessee. Lessee may sublet commercial portions of the Leased Property without the prior written approval of Lessor, unless the term of the sublease

is for a period exceeding the term of this Lease, in which case Lessor's consent will be required. Any sublease shall be subject to the terms of this Lease and Lessee shall remain primarily liable to Lessor for the full performance of the duties and obligations under this Lease.

Section 5.4 Mortgages; Lessee's Confirmations. This Lease and any right or interest of Lessee hereunder shall be subordinate and junior to the lien of any first real estate mortgage of Lessor on the Hotel or any additions thereto. Lessor covenants to Lessee that it will maintain all financing on the Leased Property, or any additions thereto, in a current status and not in default at all times during the continuation of this Lease. Lessee shall, upon written request from Lessor, furnish a written confirmation in form and substance satisfactory to Lessor that it has accepted the Leased Property, confirms the commencement of the Lease, and is in occupancy and paying rent as specified hereunder (with no offsets or claims against Lessor, if none). Lessor will obtain subordination, attornment and non-disturbance agreements between its existing and future lenders and Lessee. To the extent that any new financing is obtained by Lessor, Lessor will endeavor to obtain subordination, attornment and non-disturbance agreements between its new lenders and Lessee, which shall (to the extent possible) recognize the use of insurance and condemnation proceeds as set out in this Lease.

Section 5.5. Transfer of Control. Any assignment, conveyance or transfer of ownership, whether of a direct or indirect interest, and whether voluntary, involuntary, by operation of law, pursuant to judicial process or otherwise, that results in a change in control of Lessor or Lessee, will be a default under, and a breach of, this Lease, pursuant to which the other party will have the right to terminate this Lease.

## ARTICLE VI

### Damage to Hotel by Casualty, Insurance Rates and Eminent Domain

Section 6.1 Damage to Leased Property. In the event that the Hotel is partially damaged by fire or other casualty during the term of this Lease but not to an extent as to be unsuitable for occupancy or unfit for their intended use or to prevent repair or restoration within a reasonable period of time, then Lessee shall notify Lessor by notice in writing and Lessor, to the extent of insurance proceeds made available by the insurer, will make such insurance proceeds available to Lessee in the event Lessee elects to repair and restore the portion of the Hotel so damaged, and this Lease shall continue in full force and effect.

If the Hotel is wholly or substantially damaged by fire or other casualty so as to be unsuitable for occupancy or unfit for their intended use or to prevent repair and restoration within a reasonable period of time, then Lessee may cancel this Lease. If Lessee does not cancel this Lease, then Lessor, to the extent of insurance proceeds made available by the

insurer, will make such insurance proceeds available to Lessee, and Lessee shall proceed promptly to repair and restore the Hotel and this Lease shall continue in full force and effect. The rent shall not abate during restoration.

Any rebuilding, repair or restoration by Lessee shall be completed in an expeditious manner subject to delays by causes or condition beyond the reasonable control of Lessee and subject to any disbursement conditions imposed by Lessor's mortgagee.

In the event Lessor's mortgagee applies any part of the insurance proceeds to the outstanding mortgage balance, then Lessee shall have the option to rebuild or cancel this Lease. At any time this Lease is terminated under this Article VI, all of the insurance proceeds attributable to the Leased Property (including proceeds attributable to the Hotel and Lessor's Personal Property) shall be delivered to Lessor or Lessor's mortgagee, as Lessor's mortgagee shall so elect, and Lessee shall have no right to any portion of such proceeds. Notwithstanding anything to the contrary set forth herein, in the event that the Leased Property is damaged by a casualty which is not covered by fire and extended coverage insurance which Lessor or Lessee is required to maintain or in the alternative, the insurance proceeds are not sufficient or available to repair and/or restore the damaged portion of the Leased Property, in whole or in part because Lessor's mortgagee has elected to apply all or part of the insurance proceeds to Lessor's outstanding mortgage balance, then neither party shall have any obligation to repair or restore the Leased Property and Lessee shall have the right to terminate the Lease upon written notice to Lessor.

Section 6.2 Insurance Rates. Lessee covenants not to make void or voidable any policy of insurance by its acts or omissions, or by its acts or omissions to cause the insurance premiums charged on any insurance carried pursuant hereto to increase.

Section 6.3 Eminent Domain. If the entire or a significant part of the Leased Property shall be taken pursuant to a legal power of eminent domain or a deed in lieu thereof and such taking or conveyance shall materially interfere with Lessee's conduct of its business and thus make the intended use impractical, then Lessee may terminate this Lease effective upon the date of such taking, provided that the Lessee gives written notice to Lessor within thirty (30) days after a taking of the type described above. In the event of a partial taking which does not materially interfere with Lessee's conduct of its business so as to affect materially the profitability of operation of the Hotel, the Base Rental for the Leased Property shall be reduced in accordance with the ratio of the value of the Leased Property immediately after the taking to the value of the Leased Property immediately prior to the taking, which reduction in value shall be measured principally by the reduction in the number of guest rooms. Lessor and Lessee shall each look to the taking authority for compensation based upon their respective interests and legal rights but with mutual cooperation. However, so much of the award or compensation as is necessary to repair or restore the improvements on the Leased Property to a condition suitable for continued operation shall be paid to Lessor and Lessor shall, to the extent of such proceeds, repair and restore the Leased Property to

their condition immediately prior to the taking or to a condition suitable for the continued operation of the hotel at the Leased Property. In the event that Lessor's mortgagee applies all or part of the condemnation proceeds or award to its mortgage balance, then either party shall have the option to rebuild and restore or to cancel this Lease. Any restoration by Lessee shall be completed in an expeditious manner subject to delays by causes or conditions beyond the reasonable control of Lessee and subject to any disbursements conditions imposed by Lessor's mortgagee.

## ARTICLE VII

### Default by Lessee or Lessor

Section 7.1 Events of Default. Lessee agrees that any of the following events or occurrences shall constitute an event of default under this Lease (each being a "Lessee Event of Default") subject to the cure period specified under Section 7.2: (a) failure of Lessee to pay any installment of rent (including Base Rental and any other amounts due by Lessee hereunder) when due; (b) failure of Lessee to perform any covenant, condition or obligation contained herein; (c) insolvency of Lessee or its failure to pay debts as they mature, the appointment of a receiver for Lessee or an adjudication that Lessee is bankrupt; (d) abandonment or vacation of the Leased Property by Lessee (except as allowed under Sections 6.1 and 6.3 of this Lease); (e) dissolution of Lessee; or, (f) any breach of, or default under, any other agreement executed between Lessor and Lessee. If the cure of any default by Lessee is undertaken within thirty (30) days after notice from Lessor and is being pursued in good faith and with diligence, this Lease shall continue in full force and effect and Lessor shall not pursue the remedies described in Section 7.2.

Section 7.2 Lessor's Rights and Remedies. Upon any event of default and a failure by Lessee to cure the payment of money within fifteen (15) days or to cure other defaults within thirty (30) days after the giving of written notice thereof by Lessor to Lessee, Lessor, at its option and without further demand or notice, shall have the following rights and remedies: (a) allow Lessee to remain in possession and institute proceedings for the collection of all overdue rental, together with costs of collection and reasonable attorneys' fees, all without relief from valuation or appraisal laws; or (b) prohibit in any lawful manner Lessee's access to and use of the Leased Property until any default by Lessee under this Lease has been cured; or (c) retake possession of the Leased Property, terminate this Lease and relet the Leased Property to a third party or third parties and institute proceeding for the collection of a sum equal to the cost of recovering possession and the unpaid rent due on the date of default,; or (d) perform any covenant or obligation of Lessee and charge all amounts paid by Lessor, together with interest thereon at the prime interest rate plus 600 basis points to a maximum of ten percent (10%) per annum, to Lessee; or (e) retake possession of the Leased Property, without terminating this Lease, make alterations and repairs reasonably necessary for reletting the Leased Property and relet the same or any part thereof for such term or terms (which may extend beyond the term of this Lease) at such

rental and upon such terms and conditions as Lessor in its reasonable discretion deems advisable; or (I) pursue any other remedy available at law or in equity. No reentry onto or taking possession of the Leased Property, notwithstanding any provision of this Lease to the contrary, shall be construed as an election of Lessor to terminate this Lease unless Lessor gives written notice of termination to Lessee. Notwithstanding any reletting without termination, Lessor may at any time thereafter elect to terminate this Lease for Lessee's previous default. Lessee shall not be in default with respect to a nonmonetary breach if such defaults cannot reasonably be cured within thirty (30) days so long as Lessee commences to cure such breach within such thirty (30) day period and continues in good faith and with diligence to complete such cure. Lessor shall have a duty to use reasonable efforts to relet the Leased Property. All rights and remedies of the Lessor herein specified are cumulative and are in addition to, not in limitation of, any rights or remedies which Lessor may have by law. No waiver of any default or failure or delay to exercise any right or remedy by Lessor shall operate as a waiver of any other default or the same default in the future or as a waiver of any right or remedy with respect to the same or any other occurrence. Lessee agrees to release and hold harmless Lessor from any and all claims arising out of the lawful repossession of the Leased Property by Lessor. Notwithstanding the foregoing, this Lease cannot be terminated by Lessor other than for a justified reason, such as the repeated and ongoing breach of the Lease after written notice and a period to remedy the breach, a delay in the lease payments for a period of two months, or a Transfer of Control, as described in Section 5.5.

Section 7.3 Lessor's Default. Lessor agrees that any of the following events or occurrences shall constitute an event of default under this Lease (each being a "Lessor Event of Default") subject to the cure period specified under this Section: (a) failure of Lessor to pay any amounts when due under the Lease; (b) failure of Lessor to perform any covenant, condition or obligation contained herein; (c) insolvency of Lessor or its failure to pay debts as they mature, the appointment of a receiver for Lessor or an adjudication that Lessor is bankrupt; (d) dissolution of Lessor; or, (e) any breach of, or default under, any other agreement executed between Lessor and Lessee. Upon Lessor's Event of Default, Lessee may, after a failure by Lessor to cure such default within thirty (30) days after the giving of written notice thereof by Lessee to Lessor, declare this Lease terminated, and thereafter, within fifteen (15) additional days, leave and surrender the Leased Property to Lessor and pursue any other remedy at law or equity; however, if the cure of any default by Lessor is undertaken within thirty (30) days after notice from Lessee and is being pursued in good faith and with diligence, this Lease shall continue in full force and effect. In the event of a default by Lessor in the payment when due of the principal of or interest on indebtedness constituting a lien upon the Leased Property or a failure by Lessor to perform its obligations hereunder, Lessee shall have the right to cure any such default by Lessor and shall be entitled to receive interest at the rate of the prime interest rate plus 600 basis points to a maximum of ten percent (10%) per annum on any amounts advanced and, upon receipt by Lessee of a non-appealable court order to such effect, to set off the amount of funds advanced plus interest against its obligations to Lessor under this Lease. Lessor shall at all times mutually

cooperate with Lessee in connection with licenses and permits that Lessee deems necessary or appropriate for the operation of a hotel at the Hotel.

## ARTICLE VIII

### Surrender of Possession, Termination and Holding Over

Section 8.1 Surrender of Possession. At the end of the lease term or upon the earlier cancellation or termination of this Lease, Lessee shall surrender the Leased Property to Lessor in the same good condition and state of repair as they were at on the Effective Date (provided that Lessor and Lessor's mortgagee made available to Lessee insurance and condemnation proceeds sufficient for the repair or restoration of the Leased Property as provided in Article VI), ordinary wear and tear and casualty not covered or required to be covered by the required fire and extended replacement cost coverage excepted, but with Lessee being responsible for the reasonable expense of any damage not covered by the required fire and extended coverages insurance which is caused by the acts or omissions of the Lessee, its employees, agents, patients or invitees.

Section 8.2 Termination. At the end of the Term or upon the earlier cancellation or termination of this Lease or termination of Lessee's right to possession of the Leased Property, then all licenses, certifications, permits and authorizations issued by any governmental agency, body or authority in connection with or relating to the Hotel shall be deemed as being assigned to Lessor to the extent the same are legally assignable. Lessor shall also have the right to continue to utilize the name used by Lessee in connection with the operation of the Hotel. In connection with the foregoing clauses of this Section 8.2, this Lease shall be deemed and construed as an assignment for purposes of vesting in Lessor all right, title and interest in and to (a) all licenses, certifications, permits and authorizations obtained in connection with the operation of the Hotel and (b) the names used in connection with the operation of the Hotel. Lessee hereby agrees to take such other action including providing any information, completing any forms, and executing such other documents as may be required by any governmental authorities or may be reasonably necessary in order to vest in Lessor all right, title and interest to the items specified herein.

Section 8.3 Holding Over. Lessee shall not hold over beyond the end of the term and no act of Lessor, including the acceptance of rent, shall have the effect of creating in Lessee any interest in the Leased Property other than that of a Lessee from month-to-month. The provisions of this Lease shall govern the relations of Lessor and Lessee during any period in which Lessee is holding over.

## ARTICLE IX

### Additional Covenants

Section 9.1 No Breach or Default. Lessor covenants and agrees that neither Lessor, nor any of Lessor's affiliates, subsidiaries, or any other entity under common control with Lessor, will take any action, or commit any omission, that causes, or could reasonably be expected to cause, a breach or default under Lessor's mortgage or mezzanine financing, or under Lessee's franchise agreement and other agreements with its franchisor.

Section 9.2 Covenants Re Ground Lease between City of Brea and Lessor.

9.2.1 This Lease is subject and subordinate to the terms and provisions of the ground lease of the land on which the Hotel is located between the City of Brea as lessor and Lessor as lessee dated in March 1989 and recorded in the Official Records of Orange County, California as Document No. 89-142734, as subsequently re-recorded and amended from time to time.

9.2.2 Lessee will attorn to the City of Brea, or, in the event of any proceeding to foreclose a leasehold mortgage on Lessor's interest in the Hotel, to the leasehold mortgagee, or any person designated in a notice from the leasehold mortgagee.

ARTICLE X

Miscellaneous

Section 10.1 Notices. All notices to be given hereunder by either party shall be in writing and for purposes of this Lease shall be either personally delivered to Lessor or Lessee or their respective authorized agents or sent by certified or registered mail, return receipt requested, or by a national package express service promising overnight delivery addressed to:

Lessor at c/o Windsor Capital Group, Inc., 3250 Ocean Park Boulevard, Suite 350, Santa Monica, CA 90405 Attention: Patrick Nesbitt (with a copy of any notice to Lessor also being provided to such person or address as may be designated by either Lessor or Lessee by notice in writing).

Lessee at c/o Windsor Capital Group, Inc., 3250 Ocean Park Boulevard, Suite 350, Santa Monica, CA 90405 Attention: Patrick Nesbitt (with a copy of any notice to Lessee also being provided to such other person or address as may be designated by either Lessor or Lessee by notice in writing).

Notice shall be deemed given and received when personally delivered or on the fifth (5<sup>th</sup>) business day after deposited in the U.S. mail or on the business day after deposited with the package express company.



Section 10.2 Lessor's Covenants. So long as there is not a Lessee Event of Default hereunder, Lessee shall be entitled to the quiet enjoyment and possession of the Leased Property.

Section 10.3 General Agreement of Parties. All rights and obligations hereunder shall be binding upon and inure to the benefit of Lessor and Lessee, their respective successors, assigns and legal representatives. This Lease is executed under and shall be construed in accordance with the laws of the state in which the Hotel is located and there are no promises or agreements between the parties hereto other than those contained or referred to herein.

Section 10.4 Memorandum of Lease. Lessor and Lessee shall each execute and have recorded a memorandum of lease pursuant to applicable statutes for the purpose of acknowledging and giving notice of this Lease.

Section 10.5 Information to Lessor. Lessee agrees promptly to deliver to Lessor copies of (i) the quarterly operating statement for the Hotel operated at the Leased Property, and (ii) annual financial statement of Lessee.

Section 10.6 Authority. The parties executing this Lease on behalf of Lessor and Lessee below represent and warrant that such has been duly authorized to execute this Lease on behalf of Lessor and Lessee and that the parties hereto have fully approved and authorized such execution.

*[No further text on this page]*



IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease Agreement to be executed on the day and in the year first above written.

LESSOR

BREA PROPCO LLC,  
a Delaware limited liability company

By: WCG Asset Manager LLC,  
a Delaware limited liability company,  
its Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

LESSEE

BREA OPCO LLC,  
a Delaware limited liability company

By: WCG Asset Manager LLC,  
a Delaware limited liability company,  
its Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT A

LEGAL DESCRIPTION OF REAL ESTATE