

## FRANCHISE DISCLOSURE DOCUMENT

### NH HOTELS USA FRANCHISE INC.

a Delaware corporation

Santa Engracia, 120, 7th Floor

Madrid, Spain, 28003

+34 91 396 05 43 Ext 1543

+34 670 57 19 41

[y.fang@nh-hotels.com](mailto:y.fang@nh-hotels.com)

The franchise offered is to establish and operate an NH Hotel, which is a full service, three or four star hotel in an urban setting that caters to business and leisure travelers (the “Hotel”).

The total investment necessary to begin operation of a Hotel is \$31,815,261 to \$161,165,778. This includes \$355,000 to \$480,000 that must be paid to the franchisor or its affiliate.

This disclosure document summarizes certain provisions of your franchise agreement and other information in plain English. Read this disclosure document and all accompanying agreements carefully. You must receive this disclosure document at least 14 calendar-days before you sign a binding agreement with, or make any payment to, the franchisor or an affiliate in connection with the proposed franchise sale. **Note, however, that no governmental agency has verified the information contained in this document.**

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Ms. Yuan Fang, SVP Development Europe and Americas, at [y.fang@nh-hotels.com](mailto:y.fang@nh-hotels.com) or +34 91 396 05 43 Ext 1543, or +34 670 57 19 41.

The terms of your contract will govern your franchise relationship. Don't rely on the disclosure document alone to understand your contract. Read all of your contract carefully. Show your contract and this disclosure document to an advisor, like a lawyer or an accountant.

Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as “[A Consumer's Guide to Buying a Franchise](#),” which can help you understand how to use this disclosure document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. You can also visit the FTC's home page at [www.ftc.gov](http://www.ftc.gov) for additional information. Call your state agency or visit your public library for other sources of information on franchising.

There may also be laws on franchising in your state. Ask your state agencies about them.

Issuance date of this Franchise Disclosure Document: March 14, 2024

## How to Use This Franchise Disclosure Document

Here are some questions you may be asking about buying a franchise and tips on how to find more information:

<b>QUESTION</b>	<b>WHERE TO FIND INFORMATION</b>
<b>How much can I earn?</b>	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20.
<b>How much will I need to invest?</b>	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor’s direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
<b>Does the franchisor have the financial ability to provide support to my business?</b>	Item 21 or Exhibit A includes financial statements. Review these statements carefully.
<b>Is the franchise system stable, growing, or shrinking?</b>	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
<b>Will my business be the only Brand Hotel business in my area?</b>	Item 12 and the “territory” provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
<b>Does the franchisor have a troubled legal history?</b>	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
<b>What’s it like to be a Brand Hotel franchisee?</b>	Item 20 lists current and former franchisees. You can contact them to ask about their experiences.
<b>What else should I know?</b>	These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents.

## What You Need To Know About Franchising *Generally*

**Continuing responsibility to pay fees.** You may have to pay royalties and other fees even if you are losing money.

**Business model can change.** The franchise agreement may allow the franchisor to change its manuals and business model without your consent. These changes may require you to make additional investments in your franchise business or may harm your franchise business.

**Supplier restrictions.** You may have to buy or lease items from the franchisor or a limited group of suppliers the franchisor designates. These items may be more expensive than similar items you could buy on your own.

**Operating restrictions.** The franchise agreement may prohibit you from operating a similar business during the term of the franchise. There are usually other restrictions. Some examples may include controlling your location, your access to customers, what you sell, how you market, and your hours of operation.

**Competition from franchisor.** Even if the franchise agreement grants you a territory, the franchisor may have the right to compete with you in your territory.

**Renewal.** Your franchise agreement may not permit you to renew. Even if it does, you may have to sign a new agreement with different terms and conditions in order to continue to operate your franchise business.

**When your franchise ends.** The franchise agreement may prohibit you from operating a similar business after your franchise ends even if you still have obligations to your landlord or other creditors.

### Some States Require Registration

Your state may have a franchise law, or other law, that requires franchisors to register before offering or selling franchises in the state. Registration does not mean that the state recommends the franchise or has verified the information in this document. To find out if your state has a registration requirement, or to contact your state, use the agency information in Exhibit C.

Your state also may have laws that require special disclosures or amendments be made to your franchise agreement. If so, you should check the State Specific Addenda. See the Table of Contents for the location of the State Specific Addenda.

## Special Risks to Consider About *This* Franchise

Certain states require that the following risk(s) be highlighted:

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by arbitration and/or litigation only in New York. Out-of-state arbitration or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to arbitrate or litigate with the franchisor in New York than in your own state.
2. **General Financial Condition.** The franchisor's financial condition, as reflected in its financial statements (see Item 21), calls into question the franchisor's financial ability to provide services and support you.
3. **Short Operating History.** The franchisor is at an early stage of development and has a limited operating history in the United States. However, the franchisor's affiliates have extensive experience operating and franchising hotels internationally and currently own, operate and franchise over 500 hotels in more than 60 countries worldwide. This franchise is likely to be a riskier investment than a franchise in a system with a longer operating history in the United States.

Certain states may require other risks to be highlighted. Check the "State Specific Addenda" (if any) to see whether your state requires other risks to be highlighted.

**THE FOLLOWING PROVISIONS APPLY ONLY TO TRANSACTIONS GOVERNED  
BY THE MICHIGAN FRANCHISE INVESTMENT LAW**

**THE STATE OF MICHIGAN PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES IN FRANCHISE DOCUMENTS. IF ANY OF THE FOLLOWING PROVISIONS ARE IN THESE FRANCHISE DOCUMENTS, THE PROVISIONS ARE VOID AND CANNOT BE ENFORCED AGAINST YOU.**

Each of the following provisions is void and unenforceable if contained in any documents relating to a franchise:

- (a) A prohibition on the right of a franchisee to join an association of franchisees.
- (b) A requirement that a franchisee assent to a release, assignment, novation, waiver, or estoppel which deprives a franchisee of rights and protections provided in this act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
- (c) A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.
- (d) A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures, and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures, and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applies only if: (i) The term of the franchise is less than 5 years and (ii) the franchisee is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising, or other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least 6 months advance notice of franchisor's intent not to renew the franchise.
- (e) A provision that permits the franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.
- (f) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
- (g) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:

(i) The failure of the proposed transferee to meet the franchisor's then current reasonable qualifications or standards.

(ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.

(iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.

(iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.

(h) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if the franchisee has breached the lawful provisions of the franchise agreement and has failed to cure the breach in the manner provided in subdivision (c).

(i) A provision which permits the franchisor to directly or indirectly convey, assign, or otherwise transfer its obligations to fulfill contractual obligations to the franchisee unless provision has been made for providing the required contractual services.

If the franchisor's most recent financial statements are unaudited and show a net worth of less than \$100,000.00, the franchisee may request the franchisor to arrange for the escrow of initial investment and other funds paid by the franchisee until the obligations, if any, of the franchisor to provide real estate, improvements, equipment, inventory, training or other items included in the franchise offering are fulfilled. At the option of the franchisor, a surety bond may be provided in place of escrow.

**THE FACT THAT THERE IS A NOTICE OF THIS OFFERING ON FILE WITH THE ATTORNEY GENERAL DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR ENFORCEMENT BY THE ATTORNEY GENERAL.**

Any questions regarding this notice should be directed to:

State of Michigan  
Consumer Protection Division  
Attn: Franchise  
670 G. Mennen Building  
Lansing, Michigan 48913  
Telephone Number: (517) 335-7567

Despite paragraph (f) above, we intend and you agree to enforce fully the provisions of the arbitration section of our Franchise Agreement. We believe that paragraph (f) is unconstitutional and cannot preclude us from enforcing the arbitration provisions.

**TABLE OF CONTENTS**

	<b><u>PAGE</u></b>
ITEM 1 THE FRANCHISOR AND ANY PARENTS, PREDECESSORS, AND AFFILIATES .....	1
ITEM 2 BUSINESS EXPERIENCE .....	5
ITEM 3 LITIGATION.....	7
ITEM 4 BANKRUPTCY .....	7
ITEM 5 INITIAL FEES.....	8
ITEM 6 OTHER FEES .....	9
ITEM 7 ESTIMATED INITIAL INVESTMENT.....	26
ITEM 8 RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES .....	30
ITEM 9 FRANCHISEE’S OBLIGATIONS .....	32
ITEM 10 FINANCING.....	34
ITEM 11 FRANCHISOR’S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING .....	35
ITEM 12 TERRITORY .....	46
ITEM 13 TRADEMARKS .....	48
ITEM 14 PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION.....	50
ITEM 15 OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS .....	50
ITEM 16 RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL .....	51
ITEM 17 RENEWAL, TERMINATION, TRANSFER, AND DISPUTE RESOLUTION.....	51
ITEM 18 PUBLIC FIGURES.....	56
ITEM 19 FINANCIAL PERFORMANCE REPRESENTATIONS .....	56
ITEM 20 OUTLETS AND FRANCHISEE INFORMATION .....	57
ITEM 21 FINANCIAL STATEMENTS .....	59

ITEM 22 CONTRACTS.....59

ITEM 23 RECEIPTS .....60

**EXHIBITS**

Exhibit A	Financial Statements
Exhibit B-1	Franchise Application
Exhibit B-2	Franchise Agreement
Exhibit B-3	Statement of Services Agreement (NH Discovery Loyalty Program)
Exhibit B-4	Data Protection Agreement
Exhibit C	State Administrators/Agents for Service of Process
Exhibit D	Operating Manual Table of Contents
Exhibit E	List of Franchisees
Exhibit F	List of Franchisees Who Left the System
Exhibit G	State-Specific Additional Disclosures and Riders

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

To simplify the language in this disclosure document, “we,” “us” or “our” means **NH HOTELS USA FRANCHISE INC.**, the franchisor. “You” or “your” means the entity acquiring a franchise. One or more of the owners in you who we specify must sign a Guaranty, which means that all provisions of the Franchise Agreement (Exhibit C) also will apply to those owners. We expect that only entities, and not individuals, will acquire our franchises.

The Franchisor and its Parent Companies

We are a corporation formed in Delaware on November 20, 2023. Our principal business address is Santa Engracia, 120, 7th Floor, Madrid, 28003, Spain. If we have an agent for service of process in your state, we disclose that agent in Exhibit C. We do business under our company name and the Proprietary Marks (defined below). We also do business under our “NH Collection” and “Tivoli” brand names and related trademarks and service marks.

We have no predecessors and no business activities that are not described here. Our predecessor and direct parent company is NH Hotel Group, S.A. (“**NHHG**”), a Spanish company listed on the Spanish stock exchange, whose principal business address is Calle Santa Engracia n. 120, 7<sup>th</sup> Floor, 28003, Madrid, Spain. NHHG is controlled by our ultimate parent company, Minor International Public Company LTD. (“**Minor**”), a Thailand company listed on the Thai stock exchange, whose principal business address is 88 The Parq Building, 12<sup>th</sup> Floor, Ratchadaphisek Road, Klongtoey Subdistrict, Klongtoey District, Bangkok 10110, Thailand. We began offering franchises for full service, three- or four-star hotels in urban settings for business and leisure purposes, using our System (defined below) and which are identified by the Proprietary Marks (the “**Brand Hotels**”) on January 16, 2024. We have never offered franchises in any other line of business. We also began offering franchises for hotels under the “NH Collection” brand name on January 16, 2024, and we began offering franchises for hotels under the “Tivoli” brand name in March 2024. We have also never operated or managed any Brand Hotels.

Affiliates Who Manage Brand Hotels and/or Who Operate or Offer Franchises In Other Lines of Business

Although we do not (and have not) operated or managed any Brand Hotels, some of our affiliates do. Our affiliate Jolly Hotels USA, Inc., whose principal business address is 22 East 38<sup>th</sup> Street, New York, New York 10016, manages or owns the NH Collection Hotel located at 22 East 38<sup>th</sup> Street, New York, New York 10016. Also, NHHG has directly or through its affiliates operated or offered franchises for Brand Hotels outside of the United States since 1978. As of the date of this disclosure document, there are approximately 354 Brand Hotels operating outside of the United States. Although Minor does not operate or offer franchises for Brand Hotels anywhere in the world, it has either directly or through its affiliates operated or offered franchises for hotels outside of the United States under the following brands since 1988: Anantara, Avani, Elewana, Oaks and Tivoli. As of the date of this disclosure document, there were 530 hotels operating under these brand names outside of the United States (51 Anantara, 43 Avani, 16 Elewana, 65 Oaks and 17 Tivoli).

## Affiliates Who Supply Products or Services to the Franchise Network

Our affiliate, NHHG (whose principal business address is listed earlier in this Item 1) currently provides the following products or services to Brand Hotel franchisees in the United States:

- NH Trademarks. NHHG is the owner of the registered “NH” trademarks used by our Brand Hotel franchisees. NHHG licenses to us the right to sublicense the “NH” trademarks to Brand Hotel franchisees under a license agreement with us. We describe this license agreement in Item 13 of this disclosure document.
- NH DISCOVERY Loyalty Program. NHHG currently administers and oversees the “**NH DISCOVERY® Loyalty Program**” in which all Brand Hotels participate. While the NH DISCOVERY Loyalty Program is our current loyalty program, we can change or replace this program (in its entirety or in part) at any time. Currently, when you sign a Franchise Agreement with us, you will also sign a Statement of Services Agreement with GHA Loyalty DMCC (“**GHA**”), our and NHHG’s service provider of the outsourced loyalty services. This Statement of Services Agreement designates fees, payment terms and reimbursement models for loyalty points. A copy of the current form of Statement of Services Agreement is attached to this Franchise Disclosure Document as Exhibit B-3. As part of the current NH Discovery Loyalty Program, you will have access to certain analytical and other online GHA tools that will permit access to program performance and operational management of the loyalty program. We describe the NH Discovery Loyalty Program in Item 6 of this Franchise Disclosure Document.
- IT Services. NHHG currently provides certain IT services to our franchisees. We describe these IT services in Items 6, 8 and 11 of this Disclosure Document.

## Franchise Rights for Brand Hotels

We grant franchises for, and some of our affiliates operate or manage, Brand Hotels. Brand Hotels typically are 3-, 4- and 5-star full-service hotels that operate in urban city centers. Depending on the location and market, Brand Hotels cater to families, leisure travelers and business travelers and typically have at least 150 guest rooms. If you are interested developing and operating a Brand Hotel, you must first submit to us an application (the “**Franchise Application**”) for our consideration. Our current form of Franchise Application is attached as Exhibit B-1. If we determine that you meet our qualifications, we approve your Franchise Application and we decide to grant a franchise to you, you will sign a franchise agreement with us. Our current form of franchise agreement (the “**Franchise Agreement**”) is attached as Exhibit B-2. We call the Brand Hotel that you will operate under the Franchise Agreement your “**Hotel**.” At the same time that you sign the Franchise Agreement with us, you will also sign a data protection agreement (the “**Data Protection Agreement**”), the current form of which is attached as Exhibit B-4. The Data Protection Agreement will govern your use of any guest

personal data. You will operate the Hotel only from the location we approve before signing the Franchise Agreement.

The “**System**” means the collection of procedures, policies, brand standards, specifications, controls and other distinguishing elements which we or our affiliates have developed or acquired in connection with the establishment and operation of Brand Hotels, including the NH Experience Operating System, NH Loyalty Program, CRM loyalty and IT standards. The distinguishing characteristics of the System include our brand standards for the establishment and operation of a Brand Hotel; prototypical architectural plans, designs, layouts and distinctive color schemes for Brand Hotels; the software; the reservation system; marketing programs; the NH Loyalty Program, initial and ongoing training programs; operational brand standards, policies, procedures and techniques as described in the Manuals, all of which may be changed, improved or further developed from time to time.

The “**NH Experience Operating System**” means our (and our affiliates’) operation system for hotel, accommodation and catering businesses consisting of know-how, experiences and methodologies of the development, management, operation and IT standards of hotels. The NH Experience includes technical requirements, formats, manuals, techniques, methods, formulas, procedures and commercial and industrial experiences that we (and our affiliates), as a result of its research and innovation, has created and accumulated over time (and currently continues to create and accumulate). Among other intangible assets, the NH Experience Operating System also includes specific hotel design and decoration techniques, sales and organization techniques, a standard level of product quality and uniformity procedures. The NH Experience Operating System uses uniform imagery that is sufficiently identifiable in the market, and which is characterized by, among other things, specific design, decoration (exterior and interior), advertising campaigns, training programs, sales techniques and an exclusive color scheme inherent to the NH Experience and recognizable in hotels.

### Competition and the Market

The hotel market is well-established and highly competitive. Brand Hotels compete with other national, regional and local hotels that offer comparable services and lodging products. Brand Hotels will target leisure and corporate travelers in the upscale to luxury segments. Some competitors of Brand Hotels may be larger, may operate more hotels and may have greater resources than we do. Other competitive factors include room rates, quality of accommodations, name recognition, service levels, geographic area, site location, general economic conditions and your management capabilities.

### Industry-Specific Regulations

You must comply with a number of federal, state and local laws that apply generally to establishing and operating hotel businesses. The laws involve, among other things, zoning and construction, public accommodations, accessibility by persons with disabilities, health and safety, and labor. Many laws vary from jurisdiction to jurisdiction. You must learn about and comply with all applicable laws. Examples of these laws include:

**Health & Sanitation.** Most states have regulations or statutes governing the lodging business and related services, including food handling and preparation, the cleanliness of utensils and the serving of food and beverages. Many state and local authorities require lodging businesses to obtain licenses to assure compliance with health and sanitation codes. Additionally, state and local health regulations ordinarily include provisions specifically about restaurant and other food service establishments as to sanitation, food storage, cleaning, water supply, sewage, vermin control, toxic materials, personnel, equipment, and maintenance of physical facilities. Health-related laws may also affect the use of linens, towels and glassware, among other things.

**Alcoholic Beverages.** Alcoholic beverage service is subject to extensive regulations and licensing governing virtually all aspects of the beverage service.

**Facility Operations.** Lodging facilities must comply with innkeepers' laws that, among other things, might (i) allow innkeepers under certain circumstances to impose liens against the possessions of guests who do not pay their bills; (ii) limit the liability of innkeepers regarding guests' valuables; (iii) require posting of house rules and room rates in each room or near the registration area; (iv) require registration of guests and proof of identity at check-in, and retention of records for a specified period of time; (v) limit the rights of innkeepers to refuse lodging to certain guests; and (vi) limit innkeepers' rights to evict guests under certain circumstances. Applicable federal and state civil rights laws prohibit discrimination in hotels on the basis of race, creed, color or national origin. Some states prohibit "overbooking" and require innkeepers to find other accommodations if the guest has paid a deposit. Some states and municipalities also have enacted laws and regulations governing non-smoking areas and guest rooms. In addition, the general business laws, rules and regulations which apply to hotels in your jurisdiction will affect you. This includes any government orders related to emergent conditions, such as natural disasters and public health emergencies.

**Persons with Disabilities.** The Accessibility Laws, which include the Americans with Disabilities Act ("ADA") and all other laws, rules, regulations and ordinances governing accommodations for or relationships with persons with disabilities or similar individuals, as periodically in effect, require (among other things) that public accommodations, including hotels, (i) offer facilities without discriminating against persons with disabilities; (ii) offer auxiliary aids and services to enable a person with a disability to use and enjoy the establishment's goods or services if doing so is not unduly burdensome or disruptive to business; and (iii) remove barriers to mobility or communication to the extent readily achievable. The U.S. Department of Justice has published "accessibility guidelines" ("ADAAG") that specify, among other things, a minimum number of handicapped-accessible rooms, assistance devices for hearing, speech, and visually impaired persons, and general design and construction standards that apply to all areas of facilities. Under the ADA, all new public accommodations and commercial facilities must be "readily accessible to and useable by individuals with disabilities," unless it would be structurally impractical to do so. Alterations of existing facilities also might need to comply with the ADA and ADAAG. In addition, many states and municipalities have their own laws and regulations addressing disability discrimination, access requirements, building modifications and alterations and building code requirements.

**Fire Safety.** The Hotel and Motel Safety Act of 1990 (the "Safety Act") encourages public accommodations to install hard wired single-station smoke detectors. Certain travel

directories include only those facilities that comply with the Safety Act. Other state and local fire and life safety codes might require maps, lighting systems and other safety measures unique to lodging facilities.

**OSHA Regulations.** Like many other businesses, lodging facilities are subject to Occupational Safety and Health Administration (“OSHA”) standards. State occupational safety laws and rules may also apply.

**Telephone Charges.** Federal, state and local laws and regulations affect the re-offering of local, intrastate, and long-distance telephone service in hotel guest rooms and at coin box telephones. Some states regulate or prohibit surcharges on local and intrastate calls.

**Hotel Room Occupancy Tax Laws.** You may be required to pay local or state room occupancy taxes in your jurisdiction.

**Menu and Labeling Laws.** Federal, state and local laws and regulations govern menu labeling. These laws and regulations may, among other things, require you to post caloric information on menus and provide additional written nutrition information to consumers upon request.

**Swimming Pools, Fitness Centers and Certain Additional Services.** Your state or local jurisdiction may have statutes or ordinances regarding water safety and swimming pools, aid to choking victims, providing Automated External Defibrillators (“AEDs”), reporting cases of communicable diseases, operating fitness centers, or providing massage therapy or childcare services. In addition, the federal law known as Virginia Graeme Baker Pool and Spa Safety Act (“VGBA”) applies to swimming pools and whirlpools.

In addition to these laws, you must also comply with laws that apply generally to all businesses. You should investigate these laws.

## **ITEM 2** **BUSINESS EXPERIENCE**

Unless otherwise specified below, all individuals are currently located in Madrid, Spain.

### **Chief Assets and Development Officer; Director: Laia Lahoz Malpartida**

Ms. Lahoz is and has been NH Hotel Group’s Chief Assets and Development Officer since June 2017. She has also been one of our Directors since we were formed in November 2023. From June 2013 to May 2017, Ms. Lahoz held various positions (including Managing Director and Senior VP or Portfolio Management) at Hesperia Investor Group located in Madrid, Spain. From October 2004 to June 2013, Ms. Lahoz was the Head of the Legal Affairs Department at Hesperia Hotels located in Madrid, Spain.

### **Chief Operation Officer (COO); Director: Rufino Perez Fernandez**

Mr. Pérez Fernández is and has been NH Hotel Group’s Chief Operating Officer since July 2017. He has also been one of our Directors since we were formed in November 2023. From June

2016 to July 2017, he was the Head of Internal Audit at Hoteles Hesperia located in Barcelona, Spain. From June 1998 to June 2000, he was the Organization and Systems Director at Hoteles Hesperia located in Barcelona, Spain.

**Chief Legal and Compliance Officer; Director: Carlos Ulecia Palacios**

Mr. Ulecia Palacios is and has been NH Hotel Group's Chief Legal and Compliance Officer and General Counsel since June 2013. He has also been one of our Directors since we were formed in November 2023. Since October 2007, Mr. Ulecia is and has been a Professor at the CEU San Pablo University and at the IE Business School in Madrid, Spain. From June 1992 to March 2000, Mr. Ulecia was a senior associate at Landwell located in Madrid, Spain. From March 2000 to September 2007, Mr. Ulecia was Director of the Legal Department at Indra Sistemas located in Madrid, Spain. From October 2007 to May 2013, Mr. Ulecia was the Vice Secretary of the Board of Directors at Prisa, located in Madrid, Spain.

**Chief Executive Officer (CEO): Ramon Aragonés Marin**

Mr. Aragon is and has been NH Hotel Group's Chief Executive Officer and Managing Director since January 2017. From September 2011 to January 2017, Mr. Aragonés has been NH Hotel Group's Chief Operations Officer. From September 2000 to June 2010, Mr. Aragonés was the General Manager of Hoteles Hesperia, S.A. located in Barcelona, Spain. From October 1995 to August 2000, Mr. Aragon managed several hotels located in Galicia, Madrid, Brussels and Venezuela.

**Chief Marketing Officer: Isidoro Martínez de la Escalera Alvarez**

Mr. Martínez de la Escalera Álvarez is and has been NH Hotel Group's Chief Marketing Officer since November 2014. Mr. Martínez de la Escalera Álvarez also is and has been the Director of Biosearch, S.A. located in Granada and Madrid, Spain from July 2012 to July 2021. From January 1990 to December 2010, he held positions in Marketing and General Management in a wide range of multinational companies in the consumer, communications and internet industries, including Procter & Gamble, 20th Century Fox H.E, Pepsi, Antena 3 TV and Grupo Osborne all located in Madrid, Spain. In March 2011, Mr. Martínez de la Escalera Álvarez founded the communications agency QMS and the digital marketing company MultiPlatform Content located in Madrid, Spain.

**Chief Commercial Officer: Fernando Vives Soler**

Mr. Vives Soler is and has been NH Hotel Group's Chief Commercial Officer since July 2016. From May 2014 to June 2016. Mr. Vives was the Co-Founder of Xotels, Ltd. located in Madrid, Spain. From January 2010 to October 2012, Mr. Vives was the Global Director of Revenue Management and Senior Commercial Director, EMEA and Premium Brands, of Melia Hotels International located in Madrid, Spain. From June 1990 to September 2000. Mr. Vives was the Credit Controller of the Ritz Carlton Hotels located in Madrid, Spain. From December 2000 to February 2001, Mr. Vives was the Revenue Manager at Hesperia Hotels located in Barcelona, Spain.

**Chief People Officer: Marta Perez-Leiros Fernandez**

Ms. Perez-Leiros is and has been NH Hotel Group's Chief People Officer since June 2022. From March 2001 to September 2003, Ms. Perez -Leiros was in Human Resources at Credit Suisse located in Madrid, Spain. From April 2004 to April 2008, Ms. Perez-Leiros was in Human Resources at Applus+ located in Madrid, Spain.

**Chief Financial Officer: Luis Martinez Jurado**

Mr. Martinez Jurado is and has been NH Hotel Group's Chief Financial Officer since September 2020. From October 2022 to March 2005, Mr. Martinez Jurado was the Head of Treasury at Degremont (Suez) located in Madrid, Spain. From March 2005 to May 2013, Mr. Martinez Jurado was the Financing, Treasury & Risk Management at Telvent-Schneider Electric located in Madrid, Spain. From May 2013 to February 2016, Mr. Martinez Jurado was the Finance Director at Prosegur located in Madrid, Spain.

**Chief Strategy Officer: Alonso Escriva de Romani**

Mr. Escrivá de Romaní Arsuaga is and has been NH Hotel Group's Chief Strategy Officer since December 2022. Mr Escrivá de Romaní Arsuaga joined the NH Hotel Group in April 2006 and has held various positions in NH Hotel Group's HR Analysis and Organization, Investment Analysis, M&E and Financial Planning, Investor Relations, and Strategic Planning and Controlling. From October 2005 to April 2006, Mr. Escrivá de Romaní Arsuaga was the analyst at Accenture located in Madrid, Spain.

**Senior Vice President, Development, Europe and Americas: Yuan Fang**

Ms. Yuan Fang is and has been NH Hotel Group's Senior Vice President of Development, Europe and Americas, at NH Hotel Group since January 2023. From January 2014 to December 2022, Ms. Fang held various positions (Manager and Vice President) at the NH Hotel Group in the areas of Asset Management and Development.

**ITEM 3**  
**LITIGATION**

No litigation is required to be disclosed in this Item.

**ITEM 4**  
**BANKRUPTCY**

No bankruptcy is required to be disclosed in this Item.

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

### Initial Application Fee

You must pay to us a lump-sum application fee (the “**Application Fee**”) when you submit your Franchise Application to us. The Application Fee is currently an amount equal to the greater of \$60,000 or \$500/guest room (for a standard 150-room Brand Hotel, this amount would be \$75,000). If we approve your Franchise Application, then the entire Application Fee is non-refundable. If you withdraw your Franchise Application, or if we reject your Franchise Application for any reason, then we will refund the Application Fee, less \$10,000, to cover our costs and expenses in reviewing your Franchise Application. After we approve your Franchise Application, the Application Fee is not refundable, even if we and you do not sign a Franchise Agreement. Except as stated above, the Application Fee is non-refundable.

### Pre-Opening Development Fees and Costs

#### A. Hotel Property Improvement Plan (“**PIP**”)

If we prepare a PIP for you, then you must pay to us our then-current, one-time fee for the PIP, which is currently \$20,000. You must pay this fee to us before we schedule the PIP inspection. This fee is not refundable under any circumstances.

#### B. Pre-Opening Technical Services Fee.

Before your Hotel opens for business, we (or our designee) will provide to you certain technical and pre-opening services, including with regard to (i) the design and construction of the Hotel; (ii) the design of the FF&E and OS&E for the Hotel; and (iii) activities which must be undertaken so that the Hotel can function in an appropriate and orderly manner as a Brand Hotel (the “**Technical Services**”). “**FF&E**” means all furniture, fixtures, telephone systems; communications systems; facsimile machines; copiers; signs; the technology system and other property management, revenue management, in room entertainment, and other computer and technology systems; and other similar items or equipment that Franchisor periodically specifies for the Hotel. “**OS&E**” means collectively, "Operating Supplies" and "Operating Equipment" as defined in the Uniform System of Accounts. We describe the pre-opening Technical Services that we currently provide in Item 11 of this Franchise Disclosure Document. In exchange for the provision of these Technical Services, you will pay to us a one-time, non-refundable fee at a time that we designate before your Hotel opens. The amount of the fee for Technical Services will vary depending on the condition of the Hotel, including whether the Hotel is a new build or a conversion. However, we expect that the amount of Technical Services fee for a 150-room Brand Hotel will typically be approximately \$1000/guest room (which is \$150,0000).

### Initial Pre-Opening Training (Initial Owner Orientation, General Manager Introduction Training & Pre-Opening Training Programs for Other Hotel Personnel).

Before the Hotel opens, your managing owners, general managers and other hotel personnel must complete to our satisfaction certain initial training programs. We describe these

training programs in Item 11. For these training programs, you must pay to us in a lump sum our then-current initial training fees. These training fees are non-refundable fee under any circumstances and must be paid before the training takes place. The training fees for all pre-opening training generally range from \$75,000 to \$120,000. This range does not include the cost for travel, meal, tax and lodging expenses for our trainers, for which you are also responsible. In addition to the training fees, you are also responsible for the cost of travel, meal lodging and miscellaneous expenses incurred by you and your designated attendees to complete these training programs.

Set Up Costs and Fees Relating to Computer System, Property Management System (“PMS”), Reservation System

You will use the PMS, CRS (Centralized Reservation Service) and TMS that we specify to manage the and operate your Hotel. Before the Hotel opens, we will assist you in setting up your computer system, PMS and reservation system. In exchange for our assistance, at the time that you sign the Franchise Agreement, you must pay to us in a lump sum our then-current technology set-up services fees. These fees are not refundable under any circumstances and will cover website set up costs (\$20,000 to \$40,000) and set up of the CRS, PMS, POS and other connectivity services with third parties (for example, OTAs and GDSs) (\$50,000 to \$75,000). These fees do not include all technology costs required to operate a typical Hotel. Examples of systems not included are telephone, accounting, payroll, inventory management, free to guest television, BEM software, key card system, digital signage. You must obtain these systems and software from approved or designated suppliers other than us or our affiliates. You also must obtain all computers, printers and other hardware from approved or designated suppliers other than us or our affiliates. We explain those costs in Item 7.

Refundability and Range of Initial Fees

Except as otherwise provided in this Item 5, none of these payments above are refundable under any circumstances. In addition, all of the ranges of initial fees described in this Item 5 reflect the current fees for services rendered and, depending on when the Hotel is developed or remodeled, may be higher in subsequent years.

**ITEM 6**  
**OTHER FEES**

<b>Column 1</b> <b>Type of Fee</b>	<b>Column 2</b> <b>Amount</b>	<b>Column 3</b> <b>Due Date</b>	<b>Column 4</b> <b>Remarks</b>
Continuing Franchise Fee	Up to 5% of monthly Gross Rooms and Banquet Sales, <sup>(1)</sup> currently 5%	Payable within 10 days following the end of each calendar month.	See Note 2

<b>Column 1 Type of Fee</b>	<b>Column 2 Amount</b>	<b>Column 3 Due Date</b>	<b>Column 4 Remarks</b>
Reservation Fee	Up to 5.5% of quarterly confirmed revenue derived from any reservations made through the CRO, plus up to 5,5% of quarterly confirmed revenue derived from any reservations made through the GEM; currently 5.5% respectively.	Payable within 10 days following the end of each quarter.	See Note 2
Marketing Fee	1.5% of Gross Rooms and Banquet Sales <sup>(1)</sup>	Payable within 10 days following the end of each calendar month.	
<b>Brand Services (Mandatory)<sup>(4)</sup></b>			
NH DISCOVERY® Loyalty Program; commissions <sup>(3)</sup>	<p>Varies; currently:</p> <p>2% of Qualified Rooms Revenue generated from participant's stay at the Hotel</p> <p>10% of Qualified Rooms Revenue generated from participant's stay who enrolled in program through different brand</p> <p>1.5% of Qualified Non-Rooms Revenue generated from program participants</p> <p>\$2 per reservation made through GHA.com/GHA Application</p>	When invoiced; typically monthly	You will not pay to us and commissions for an enrollment stay. See Note 3; you will pay these commissions directly to GHA.

<b>Column 1 Type of Fee</b>	<b>Column 2 Amount</b>	<b>Column 3 Due Date</b>	<b>Column 4 Remarks</b>
IT – Technical Assistance for Hardware Support (other than POS system, which is described below)	Currently, \$40 per covered piece of equipment	When invoiced (currently, annually)	Payable to us or our affiliates. We or our affiliates will provide certain hardware support and technical assistance. This does not include repairs or maintenance that is more than standard wear-and-tear.
IT – Computer Antivirus Software and Cybersecurity Protection	Currently, \$75 per covered piece of equipment	When invoiced (currently, annually)	Payable to us or our affiliates. We or our affiliates will provide certain software security to assist with the monitoring, detection and prevention of cybersecurity threats.
IT – Microsoft and Windows Licenses	Currently, \$300 per user	When invoiced (currently, annually)	Payable to us or our affiliates. We or our affiliates will provide certain services relating to Microsoft and Windows that we require you to use at the Hotel.
IT —Support for External Learning Site	Currently, \$10 per Hotel personnel	When invoiced (currently, annually)	Payable to us or our affiliates. We or our affiliates will provide certain support for the learning website that Hotel personnel will use for training courses.
IT —License Fee for POS and PMS software	Currently, \$3-\$5 per Hotel room per month	When invoiced (currently, annually)	Payable to us or our affiliates. We or our affiliates will provide certain IT software support for your use of the POS and PMS systems.
IT —Technical Assistance for Hardware Support for POS System	Varies depending on the number of POS terminals are at the Hotel. Currently, we require one sale point terminate and two POS, which is approximately \$240 per year and \$170 per year per additional POS terminal	When invoiced (currently, annually)	Payable to us or our affiliates. We or our affiliates will provide to you technical assistance for hardware support for your POS system at the Hotel.

<b>Column 1 Type of Fee</b>	<b>Column 2 Amount</b>	<b>Column 3 Due Date</b>	<b>Column 4 Remarks</b>
IT —Centralized Support and Maintenance of PMS Software	Currently, \$1,700 per year	When invoiced (currently, annually)	Payable to us or our affiliates. We or our affiliates will provide to you certain centralized support and maintenance of the PMS software.
IT —Support of TMS System Interface	Varies depending on the number of interphases; currently, \$250 per year	When invoiced (currently, annually)	Payable to us or our affiliates. We or our affiliates will provide to you certain support services relating to the TMS system and its interface with external systems
IT —Third party Distribution Fee	Varies depending on the number of reservations made through the CRS (Centralized Reservation Service); currently, \$0.60 per reservation	When invoiced (currently, monthly)	Payable to us or our affiliates. You will pay this fee for each reservation made for the Hotel through the CRS.
Travel Agent Consortia Service Fees	Varies depending on the participating travel agencies' price per night	When invoiced (currently, every four months)	We or our affiliates collect this fee on behalf of third parties. See also Note 5.
Commissions on Reservations made through Travel Management Companies (TMCs) and Online Travel Agencies (OTAs)	Varies depending on the TMC or OTA	When invoiced (currently, annually)	We or our affiliates collect this fee on behalf of third parties. Commissions apply on reservations sales made through TMCs, OTAs and M&E (Meeting and events). The commissions are typically charged to Brand Hotels based on the number of reservations made through the applicable TMC, OTA or M&E.
Revenue Management System Software (currently, Duetto)	Varies; currently, \$1,130 to \$2,100	When invoiced (currently, every four months)	We or our affiliates impose this fee on behalf of third parties. However, the supplier will invoice you directly for this service. The Revenue Management System software provides

<b>Column 1 Type of Fee</b>	<b>Column 2 Amount</b>	<b>Column 3 Due Date</b>	<b>Column 4 Remarks</b>
			Brand Hotels with, for example, demand forecasts, inventory management, and revenue performance information.
Room Rate Shopper Software  (currently, Lighthouse Market Intelligence)	Varies; currently up to \$600	When invoiced (currently, every four months)	We or our affiliates collect this fee on behalf of third parties. This software will assist Brand Hotels with, for example, revenue management, competitor pricing insights, analysis of rate trends, identify events, monitor rate distribution across channel, provide real-time market intelligence relating to guest demands (patterns, shifts and upcoming trends).
Global Distribution System (GDS) and Channel Managers Fees	Varies depending on the service provider	When invoiced	We or our affiliates collect this fee on behalf of third parties. See Note 6.
Pricing Parity Tool	Currently, \$600	When invoiced (currently, annually)	We or our affiliates collect this fee on behalf of third parties. This tool is used to compare the Brand Hotel's published pricing across various distribution channels and will monitor the consistency of the published pricing in those channels.
Visual Content Software (currently, Ice Portal)	Currently, \$70	When invoiced (currently, annually)	We or our affiliates collect this fee on behalf of third parties. This tool is software is used to distribute visual content (images of the Brand Hotels) to various channels such as OTAs and GDSs.
Airlines Loyalty Programs	Varies depending on airline and loyalty	When invoiced (currently monthly)	We or our affiliates collect this fee on behalf of third

<b>Column 1 Type of Fee</b>	<b>Column 2 Amount</b>	<b>Column 3 Due Date</b>	<b>Column 4 Remarks</b>
	program		parties when guest uses loyalty points from frequent traveler programs.
Web Media	Varies; currently calculated as 9.3% of total revenues from sales originating through the internet, including direct online channels, and the CRO websites.	When invoiced (currently monthly)	We or our affiliates collect this fee on behalf of third parties. This covers certain costs relating to paid internet searches, meta-searches, retargeting, affiliate marketing, and email marketing for direct bookings at your Hotel.
Marketing (Journeys Lifestyle Magazine)	Currently, \$5 per Magazine	When invoiced (currently, twice each calendar year)	We or our affiliates collect this fee on behalf of third parties. As part of international brand awareness building efforts, Brand Hotels are expected to distribute the Journeys Lifestyle Magazine to all guest rooms (2 copies per room, per issue). The magazine is typically be updated 2 times per year (2 editions).
Guest Satisfaction Dashboards (currently ReviewPro)	Currently, \$1,300	When invoiced (currently, every four months)	We or our affiliates collect this fee on behalf of third parties. ReviewPro is a platform designed to help businesses manage and monitor their guest satisfaction all in one dashboard. It aggregates all the online reviews (such as from Booking.com, TripAdvisor, Google) and guest surveys.
Mystery Guest Audit	Currently, \$4,300	As incurred	We or our affiliates impose this fee on behalf of third parties. However, the supplier will invoice you directly for this service. This audit covers over 800 individual service "touches" across all Hotel departments. Each department is individually

<b>Column 1 Type of Fee</b>	<b>Column 2 Amount</b>	<b>Column 3 Due Date</b>	<b>Column 4 Remarks</b>
			scored and then you are provided with a detailed written report (including recommendations). This survey is typically an anonymous on-site three-day/two-night visit.
IT – Connection of Corporate Data Lines	Varies	When invoiced (currently monthly)	We or our affiliates impose this fee on behalf of third parties. However, the supplier will invoice you directly for this service. This covers secured data lines and hardware maintenance needed to connect your Hotel with centralized software and guest wi-fi and Chromecast.
IT – Wi-Fi, Business Center, and Chromecast Support Services	Varies	When invoiced (currently monthly)	We or our affiliates impose this fee on behalf of third parties. However, the supplier will invoice you directly for this service. This cost covers Wi-Fi, Business Center and Chromecast support services.
IT – Software/Hardware Technical Support	Varies	When invoiced (currently monthly)	We or our affiliates collect this fee on behalf of third parties. This cost covers call center support for technical issues that can arise and should be resolved by our centralized team.
IT – Printer Services.	Varies	When invoiced (currently monthly).	We or our affiliates impose this fee on behalf of third parties. However, you will be able to select the supplier and the supplier will invoice you directly for this service. This cost covers the cost per print done.
Benchmarking Software (currently, Demand 360)	Varies; currently \$2,500 to \$6,000	When invoiced (currently, annually)	We or our affiliates impose this fee on behalf of third parties. However, the supplier will invoice you

Column 1 Type of Fee	Column 2 Amount	Column 3 Due Date	Column 4 Remarks
			directly for this service. This benchmarking software is used by Brand Hotels to support sales and revenue management. This software provides certain market intelligence through real-time data and competitor market and sub-markets performance.
Upselling Consultancy Services	Varies; currently a setup fee of \$1,600, a launch fee of \$3,200 and a monthly recurring fee of \$3.20 per hotel room per month	When invoiced	We or our affiliates impose this fee on behalf of third parties. However, the supplier will invoice you directly for this service. This service assists Brand Hotels with performance and generating incremental hotel ancillary revenues. This software will provide training and will develop front office agents through digital learning supported by a revenue management team.
Agency 360 – Market Data Software	Varies; currently between \$5,000 and \$8,000	When invoiced (currently, annually)	We or our affiliates impose this fee on behalf of third parties. However, the supplier will invoice you directly for this service. This software gives you visibility into corporate bookings made within your market and at competitive hotels. The property edition only allows you access to the data for your Hotel and the established competitive set. <b>“Competitive set”</b> means the grouping of other hotels that your Hotel is comparable with in terms of location, star rating and segmentation.
Agency 360 –	Varies; currently	When invoiced	We or our affiliates impose

<b>Column 1 Type of Fee</b>	<b>Column 2 Amount</b>	<b>Column 3 Due Date</b>	<b>Column 4 Remarks</b>
Reservations Data Software	between \$1,300 and \$2,000	(currently, annually)	this fee on behalf of third parties. However, the supplier will invoice you directly for this service. This software gives you visibility into corporate bookings made within your market/ competitive set. It allows you to view the data for multiple properties and is an add on feature to the Market Data Software Agency360. Therefore, this software requires that you also use the Market Data Software Agency 360.
GDS Publicity	Varies depending on the publicity campaign	As incurred	We or our affiliates impose this fee on behalf of third parties. However, the supplier will invoice you directly for this service. This fee is for marketing campaigns on the different GDSs (such as Amadeus, Sabre and Travelport).
IT – Document Readers	Varies, currently \$310 per meter	When invoiced (currently annually)	We or our affiliates impose this fee on behalf of third parties. However, the supplier will invoice you directly for this service. This covers maintenance of document readers used at check-in.

Column 1 Type of Fee	Column 2 Amount	Column 3 Due Date	Column 4 Remarks
Brand Services (Optional) <sup>(4)</sup>			
Administration – Shared Services Center (SSC)	Varies, currently between \$9,000 and \$25,000, plus a fee of 0.5% of Total Revenue (defined in Note 3)	When invoiced (currently, annually)	Payable to us or our affiliates only if you request these services. This includes administration and certain accounting services (for example, for accounts payable, accounts receivable, general ledger, fixed assets). This service is provided by a shared service center currently located in Manila and under our partnership with Accenture Outsourcing SL.
Revenue Manager Services (Revenue Management Excellence HUB)	Varies, depending on the services actually provided by the Revenue Manager	When invoiced (currently, monthly)	Payable to us or our affiliates only if you request these services. The RM Excellence HUB will deliver revenue management services for the Hotel. The Revenue Manager will consult and provide support on your Hotel’s financial performance and market outlook.
IT – License fee to use Enterprise Resource Planning software	Currently, \$240/user/year	When invoiced (currently, annually)	Payable to us or our affiliates only if you request this service. You would have the right to use our or our affiliate’s ERP software.
Diamond Listing to increase Lead Visibility	Varies; currently \$16,000 to \$20,000 for Diamond Listing, and \$410 for Lead Visibility	When invoiced (currently, annually)	We or our affiliates collect this fee on behalf of third parties only if you request these services. Brand Hotels can opt for a diamond listing, which will place the property in the first results in a customer’s internet search.

<b>Column 1 Type of Fee</b>	<b>Column 2 Amount</b>	<b>Column 3 Due Date</b>	<b>Column 4 Remarks</b>
Commercial Accounts Software (currently, Lanyon)	Currently, \$620	When invoiced (currently, annually)	We or our affiliates collect this fee on behalf of third parties only if you request these services. This software will allow you to upload contracts and RFPs when, for example, a company wants to negotiate its corporate rates. In order to respond to those RFPs the Brand Hotels must use the Lanyon software.
Benchmarking Software (currently, STR)	Currently, \$610	When invoiced (currently, annually)	We or our affiliates collect this fee on behalf of third parties only if you request these services. This benchmarking software compares a Brand Hotel's historical performance against a set of similar hotels. It will provide property-level data and analytics to support performance.
Distribution Contract Loading Team	Varies; currently up to \$1,620	When invoiced (currently, annually)	We or our affiliates collect this fee on behalf of third parties. The Distribution Loading Team uploads hotel room rates and room types into the different distribution channels such as the GDSs, OTAs, websites and Channel Managers.
Electronic Invoicing	Varies	When invoiced (currently annually)	We or our affiliates collect this fee on behalf of third parties only if you request these services. This covers the cost of updating and maintaining related hardware and software.
Management Services, Reconciliation and Payment of Commissions	Varies	When invoiced (currently every four months)	We or our affiliates collect this fee on behalf of third parties only if you request these services. This covers the cost of maintaining the

<b>Column 1 Type of Fee</b>	<b>Column 2 Amount</b>	<b>Column 3 Due Date</b>	<b>Column 4 Remarks</b>
			platform through which your Hotel will pay commissions.
Other Operations-Related Fees			
Ongoing Training – Online	Varies, depending on the number of Hotel personnel who attend; currently, approximately \$30/per Hotel personnel participant	When invoiced (currently, annually)	We or our affiliates currently provide ongoing online training.
Ongoing Training – In person/Virtual	Varies, depending on the number of Hotel personnel who attend; currently, approximately from \$250 to \$500 per Hotel personnel participant. Cancellation fees may apply	When invoiced (depends on when training is provided)	We or our affiliates currently provide ongoing training, including in person and virtual training. Any travel, lodging, meal and miscellaneous expenses of your attendees is not included in this fee. For programs that include travel by our trainers to your Hotel site, you may also be required to pay travel, lodging, tax and meals of the trainers
Mandatory Advertising and Marketing Programs	Varies	As incurred	In addition to any advertising and marketing programs required as part of the mandatory Brand Services (listed above), you must participate in and comply with the terms of all other advertising and marketing programs and policies required by us for Brand Hotels. These programs and policies may be in addition to the NH loyalty program, guest satisfaction programs, and quality assurance programs included as Brand Services above.

<b>Column 1 Type of Fee</b>	<b>Column 2 Amount</b>	<b>Column 3 Due Date</b>	<b>Column 4 Remarks</b>
Optional Marketing Material	Varies	As incurred	You must pay us the reasonable fees that we periodically established for optional marketing, advertising and promotional materials and programs that you choose to acquire from us or our affiliates or in which you choose to participate.
Miscellaneous			
Audit expenses	Cost of Audit	As incurred	Due only if our audit reveals an understatement of 3% or more.
Opening Date Extension Fee	\$5,000	As incurred	If we extend your Hotel's Opening Date by 3 months.
Pre-Opening Inspections	Our costs	As incurred	Due only if we are required to undertake more than one inspection.
Post-Opening Inspections	Our costs	As incurred	Due only if we are required to undertake more than one inspection.
Supplier Review	Our costs	As incurred	If you request to use a supplier that we have not already approved, we may charge you for our costs to review your request to evaluate a product, service and/or source.
Renewal Fee	Then-current application fee	Upon renewal	Due only if we grant you renewal franchise rights.
Transfer Fee/Expense Reimbursement	Our reimbursable costs and expenses	Upon transfer	You (or transferee) must reimburse us for our legal costs and expenses arising out of or associated with any transfer.
Liquidated damages upon termination <sup>(7)</sup>	See Note 7	10 days after termination	Due if Franchise Agreement terminates before its term expires.

<b>Column 1 Type of Fee</b>	<b>Column 2 Amount</b>	<b>Column 3 Due Date</b>	<b>Column 4 Remarks</b>
Insurance	Will vary under circumstances.	As incurred	If you fail to obtain and maintain insurance, we may (if we choose) obtain it on your behalf and charge you the premiums and costs, plus a fee corresponding to the total cost of the Hotel premium. The Hotel will not be included in our policy.
Interest on late payments	1.5% per month or the maximum amount permitted by law	On demand	Interest is due on all amounts not paid on or before the due date.
Indemnification	Will vary under circumstances	As incurred	You must reimburse us and related parties for all claims and related costs arising from your ownership, construction, renovation, conversion, establishment or operation of the Hotel, your performance under the Franchise Agreement, your employees or agents conduct (including any allegation that we or another related party is a joint employer or otherwise responsible for your acts or omissions relating to your employees), any data breach of your IT system, or your breach of any representation or warranty in the Franchise Agreement.
Costs and Attorneys' Fees	Varies	On demand	Payable to us if you do not comply with the Franchise Agreement.

Except as described above, all fees are imposed and collected by and payable to us. All fees are non-refundable. Except as described in this Item 6, all fees are uniform.

In addition to any sales, use and other taxes that applicable law requires or permits us to collect from you for providing goods or services under the Franchise Agreement, you must pay us all federal, state, local or foreign (a) sales, use, excise, privilege, occupation or any other transactional taxes, and (b) other taxes or similar exactions, no matter how designated, that are imposed on us or that we are required to withhold relating to the receipt or accrual of Continuing

Franchise Fee or any other amounts you pay us under the Franchise Agreement, excluding only taxes imposed on us for the privilege of conducting business and calculated based on our net income, capital, net worth, gross receipts, or some other basis or combination of those factors, but not excluding any gross receipts taxes imposed on us or our affiliates for your payments intended to reimburse us or our affiliates for expenditures incurred for your benefit and on your behalf. You must make these additional required payments in an amount necessary to provide us with after-tax receipts (taking into account any additional required payments) equal to the same amounts that we would have received if the additional tax liability or withholding had not been imposed or required.

### Explanatory Notes

(1) Gross Rooms and Banquet Sales Revenue. “**Gross Rooms and Banquet Sales**” means “Total Rooms Revenue” plus “Banquet Sales,” or the equivalent, as both of those terms are defined under the Uniform System of Accounts.

(2) Electronic Payments. We may require you to make these monthly payments to us (or to a bank account designated by us) by wire transfer or by any other means which we may specify in the Manuals.

(3) NH DISCOVERY Loyalty Program. As we explain in Item 1, you must participate in the NH DISCOVERY Loyalty Program. The terms of the NH DISCOVERY Loyalty Program are described in the Manuals and can change from time to time as we deem appropriate. Currently, the commissions that you will pay to GHA vary as follows: (A) 2% of Qualified Rooms Revenue (defined below) from participant’s stay at the Hotel, (B) 10% of Qualified Rooms Revenue from participants’ stays where a participate enrolled in the NH DISCOVERY Loyalty Program through different brand; and (C) 1.5% of Qualified Non-Rooms Revenue (defined below), for participants. Reservations at the Hotel made through ghadiscovery.com and other GHA websites currently are also charged an additional \$2.00 per confirmed reservation. GHA will invoice you directly each month. GHA currently charges an invoicing fee of \$60 per invoice for late payment. Currently, the reward currency of the NH DISCOVERY Loyalty Program is called “**DISCOVERY Dollars.**” Currently, these DISCOVERY Dollars have a face value of \$1 each and can be redeemed by any participants against qualifying expenditures in the Brand Hotel. Software used at the Hotel and at GHA will notify GHA whenever a DISCOVERY Dollar has been redeemed in a transaction and GHA will then provide a credit back to the Brand Hotel of 50% of the face value of the DISCOVERY Dollars redeemed. Reimbursement amounts are credited in the monthly invoices to the Hotel. In the case of promotional DISCOVERY Dollars, each Brand Hotel must grant 100% of the promotion discount to participates and must assume the related costs. You will not pay a commission on a program participants Enrollment Stay (defined below).

For purposes of describing the NH DISCOVERY Loyalty Program, we use the following definitions:

- “**Qualified Rooms Revenue**” means Rooms Revenue (as defined below) net of taxes that is generated through any bookings by or for NH DISCOVERY Loyalty Program participants as determined by the data stored in the NH DISCOVERY Loyalty Program database

("Loyalty Program Bookings"), including for stays for which the participant is entitled to receive a credit.

- **"Rooms Revenue"** means **"Total Rooms Revenue,"** or the equivalent thereof, as determined in accordance with the Uniform System of Accounts, but limited to early check-in, late check-out, room, room supplement, upselling early check-in, upselling late check-out and upselling room.

- **"Qualified Non-rooms Revenue"** means the revenue (other than Rooms Revenue) net of taxes shown on a participant's folio or otherwise recorded and transmitted to GHA, that is generated through any bookings by or for a program participant as determined by the data stored in the Loyalty Program OCIS database (**"Loyalty Program Bookings"**), including for stays for which the participant is entitled to receive a retroactive credit. It also includes the revenue transmitted to GHA and generated by a participant's non-folio expenditures at food and beverage outlets (F&B outlets), spas and other Hotel facilities.

- **"Enrollment Stay"** means a program participant's stay at a participating hotel during which the participant first enrolled in the NH DISCOVERY Loyalty Program, or the participants first stay at a participating hotel after the participant enrolled in the NH DISCOVERY Loyalty Program (if enrolment is not done during a stay).

Where an invoice includes only Qualified Rooms Revenue, and where the Qualified Rooms Revenue has been paid for by the program participant using DISCOVERY Dollars rewards currency (the **"Rewards Payment"**), the total amount of Qualified Rooms Revenue will be reduced by the amount of the Rewards Payment. Where an invoice includes only Qualified Non-rooms Revenue, and where the Qualified Non-rooms Revenue has been paid for by the participant using the Rewards Payment, the total amount of Qualified Non-rooms Revenue will be reduced by the amount of the Rewards Payment. Where an invoice includes both Qualified Rooms Revenue and Qualified Non-rooms Revenue, then the Qualified Rooms Revenue and the Qualified Non-rooms Revenue will be reduced by the Rewards Payment based on the proportion of the total invoiced amount that is made up of the Qualified Rooms Revenue and the Qualified Non-rooms Revenue. For example, where the Qualified Rooms Revenue constitutes 70% of total invoiced amount and the Qualified Non-rooms Revenue constitutes 30% of the total invoiced amount, then 70% of the Rewards Payment will go toward the Qualified Rooms Revenue and 30% of the Rewards Payment will go toward the Qualified Non-rooms Revenue.

Certain rate types and channels are excluded from Qualified Rooms Revenue and from Qualified Non-rooms Revenue, as determined by GHA from time to time. After you sign the Statement of Services Agreement with GHA, then we, or one of our affiliates, or GHA will provide to you a copy of the current qualifying rates policy applicable to Qualified Rooms Revenue and Qualified Non-rooms Revenue.

(4) Brand Services. **"Brand Services"** are the services (other than pre-opening Technical Services) which are generally provided to Brand Hotels, which may be varied by Franchisor from time to time. Some of the Brand Services are mandatory (meaning, you must obtain such services from us, our affiliates, or our designees. Some of the Brand Services are optional (meaning, you may but you are not required to, obtain such services from us, our

affiliates, or our designees. The fees and costs listed in this Item 6 are current as of the date of this Disclosure Document, but are subject to change.

(5) Travel Agency Consortia Service Fees. Each “**Consortia**” (or travel management company) is an association of small to medium sized independent travel agencies who work together to leverage their purchasing and marketing opportunities. Typically, these agencies book corporate travel. The rate per guest room for Consortia members is negotiated between the Consortia members and the Brand Hotels. Reservations made through Consortia travel agencies are booked through the GDS (Global Distribution System).

(6) GDS and Channel Managers – Transaction Fees. These fees are per confirmed reservation made through the GDS (currently, Amadeus, Sabre, Travelport) and through Channel Managers (currently, RateTiger, SynXis, Dhisco). A “**Channel Manager**” is a type of software that allows Brand Hotels to update multiple online booking sites automatically when there is a change in room availability, pricing, or stay restrictions. Updates are made automatically and in real-time. The “**GDS**” is a worldwide reservation system that acts as a conduit between travel bookers and suppliers, such as Brand Hotels, other accommodation providers and other travel related services. The GDS communicates updated, real-time pricing and room availability data to travel agents and online booking engines for automated transactions. Realtime prices and availability are communicated through SynXis to the current GDS providers. A fee per booking is charges as service fee.

(7) Liquidated Damages. Upon termination of the Franchise Agreement before the Term expires for any reason, you must pay to us within 10 days after the date of the termination, liquidated damages in a lump sum equal to the following amounts: (a) if the termination predates the Opening Date of the Hotel, then \$800,000, (b) if the Hotel has been in operation for less than 5 years, then Average Monthly Continuing Franchise Fees multiplied by 60, (c) if the Hotel has been in operation for at least 5 years but less than 10 years, then Average Monthly Continuing Franchise Fees multiplied by 48; and (d) if the Hotel has been in operation for at least 10 years but less than 15 years, then Average Monthly Continuing Franchise Fees multiplied by 24.

“**Average Monthly Continuing Franchise Fees**” means:

(A) if, as of the effective date of termination, at least 36 months have elapsed since the Opening Date, the average monthly Continuing Franchise Fee paid by Franchisee to Franchisor during the 12 full calendar months preceding the month of termination; or

(B) if, as of the effective date of termination, the Opening Date has occurred but less than 36 months have elapsed since the Opening Date, the average monthly Continuing Franchise Fee paid by Franchisee to Franchisor during the period from the Opening Date until the effective date of termination.

If “**Average Monthly Continuing Franchise Fees**” as determined pursuant to any part of (A) or (B) above has been materially and negatively impacted during the preceding 12 full calendar month period by a disruption in the Hotel’s operations resulting from an event of force majeure, casualty, suspension of operations (whether or not consented to by us), renovation of the Hotel, or any other similar circumstances, “**Average Monthly Continuing Franchise Fees**”

will be determined by reference to the most recent 12 full calendar month period preceding termination, during which the Hotel performance was not impacted.

**ITEM 7**  
**ESTIMATED INITIAL INVESTMENT**

**YOUR ESTIMATED INITIAL INVESTMENT**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to be Made</b>
Application Fee (1)	\$60,000 to \$75,000	Lump sum	Upon signing Franchise Application	Us
Security deposits, utility deposits, business licenses, and other prepaid expenses (2)	\$1,500,000 to \$1,800,000	Lump sum	Before construction begins	Government and other authorizing agencies, approved suppliers
Training fees and expenses	\$75,000 to \$120,000	As agreed	When signing	Us or our affiliates
Pre-Opening Development Costs (3)	\$150,000 to \$170,000	As agreed	Before construction	Us or our affiliates
Real Property	Will vary under circumstances	Will vary under circumstances	As incurred	Property owner
Construction, remodeling, leasehold improvements (4)	\$23,636,939 to \$135,687,151	Installments	Before and during construction	General contractor, approved suppliers
Pre-Opening Marketing Plan (5)	\$120,000	As agreed	As incurred	Approved suppliers
Equipment, fixtures, other fixed assets, decorating costs (6)	\$3,703,322 to \$17,778,627	Installments	Before and during construction and	Approved suppliers
Technology Set-Up Service Fee; Website, Computer System, PMS, Reservation System (7)	\$70,000 to \$115,000	As agreed	Before the Hotel opens	Us or our affiliates

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to be Made</b>
Inventory to begin operating	\$300,000 to \$2,000,000	As agreed	Before the Hotel opens	Approved suppliers
Insurance	Will vary under circumstances.	Installments	As incurred	Insurance Company/Agent
Miscellaneous opening costs (8)	\$1,200,000 to \$1,500,000	As agreed	As incurred	Employees, approved suppliers
Additional funds - 3 months (9)	\$1,000,000 to \$1,800,000	As agreed	As incurred	Employees, approved suppliers
<b>TOTAL ESTIMATED INITIAL INVESTMENT (excluding real estate costs and insurance costs) (10)</b>	<b>\$31,815,261 to \$161,165,778</b>			

### Explanatory Notes

- (1) Application Fee. The Application Fee is greater value between \$60,000 or \$500 per guest room (for a typical 150-room Brand Hotel, this amount is \$75,000). We describe the Application Fee and the conditions for its refund in Item 5.
- (2) Security deposits, utility deposits, business licenses, and other prepaid expenses. We based these estimates on \$10,000 to \$12,000 per guest room at a 150-room Brand Hotel. However, the licenses and permits you must obtain to operate your Hotel vary depending on the state, county or other political subdivision in which the Hotel is located. Because leasing or land purchase costs vary widely, the corresponding utility deposits, security deposits, and other prepaid expenses will also vary. Generally, each utility deposit and security deposit or other prepaid expense amount is determined by the leases you enter into and the suppliers of those utility, telephone, and other services. These types of deposits are generally held by the suppliers and sometimes refunded by contract or as required by law.
- (3) Pre-Opening Development Costs. These costs include our then-current, one-time fees that you will pay to us for the Pre-Opening Technical Services, which are described in Item 5. Because a PIP might not be necessary, the low end of this estimate does not include the fee for the PIP, but the high end of this estimate does include the fee for the PIP.

- (4) Construction, remodeling, leasehold improvements. This is an estimate for the cost of equipping and furnishing a typical 150-room pre-existing hotel building that is no more than 140,000 square feet. This estimate reflects the standard food and beverage offerings, recreational, and other facilities typically found at a Brand Hotel. This estimate does not take into account local building requirements such as earthquake requirements or impact fees. Your actual expenditures will depend on many variables, such as the size and location of the real property, the quantity and quality of the materials being purchased, the terms on which the purchases are made, and fluctuations in material and labor costs. You may also elect to lease certain items such as the real property. In new construction, building construction costs vary greatly from region to region depending on material and labor costs and other variables.
- (5) Pre-Opening Marketing Plan. You must undertake a pre-opening marketing program. We describe this requirement in Item 11. As part of this program, you must spend at least \$160,000 on local marketing during the three-month period covering the first two months before your Hotel's opening date and the first month immediately following the Hotel's opening date.
- (6) Equipment, fixtures, other fixed assets, decorating costs. This is an estimate for the cost of equipping and furnishing a typical 150-room pre-existing hotel building that is no more than 140,000 square feet. The cost of equipment, fixtures, other fixed assets and decorating costs will depend on the number and type of guest rooms (for example, double rooms versus king rooms), the extent of the food and beverage service offered, restaurants, lounges and related facilities. Estimates include the cost of equipment (other than the Computer System, PMS and Reservation System; See Note 7 below), FF&E for guest rooms, corridors, restaurants, lounges, fitness facilities, public areas, telephone systems, kitchen equipment, and laundry equipment. If you are converting an existing hotel facility, your costs will most likely be lower, but you must conform the guest rooms, public areas, exterior, and all other areas to our System Standards.
- (7) Technology Set-Up Services Fees and Costs; Website, Computer System, PMS, Reservation System. This estimate is for a typical 150-room pre-existing hotel building that is no more than 140,000 square feet. This estimate includes both the estimated website set-up costs (\$20,000 to \$40,000) and the estimated set-up costs relating to the CRS, PMS, POS and other connectivity services (\$50,000 to \$75,000). However, these costs and fees may vary depending on technology changes, System Standards changes, as well as the size of your Hotel.
- (8) Miscellaneous opening costs. This item includes costs for an office and other supplies, wages for Hotel management and employees, up to 3 months of pre-opening fees and related expenses, and other miscellaneous opening expenses.
- (9) Additional funds – 3 months. This item estimates your initial start-up expenses, including: payroll costs for the Hotel's personnel; management fees; utility and supplier deposit payments; and property and real estate taxes. We believe this is a minimum figure for operating a 150-room Brand Hotel during its start-up phase, which we calculate

to be 3 months. This is only an estimate, however, and there is no assurance that additional funds will not be necessary during this start-up phase.

- (10) Total estimated initial investment (excluding real estate costs). We relied on our affiliates' experience in developing, operating and managing hotels since 1978 to compile the estimate for additional funds and other figures. You should review these figures carefully with a business advisor before deciding to acquire the franchise.

Brand Hotels typically are 3-, 4- and 5-star full-service hotels that operate in urban city centers. Depending on the location and market, Brand Hotels cater to families, leisure travelers and business travelers and typically have at least 150 guest rooms (but the amount of land the Hotel requires will vary greatly depending upon local building codes, setback requirements, parking requirements and similar factors). Related leasing or land purchase costs vary widely and depend on geographic location, size, visibility, local rental rates, other businesses in the area, other local economic conditions, the site's market potential, the type of ownership or leasehold interest and other factors. Because of these factors, this table does not estimate the costs for the Hotel's rent or security deposit or the purchase price for the building or land on which the Hotel is located (if you decide to buy, rather than lease, the land and/or premises). You should consult with architects, engineers, general contractors, and others who may be able to provide more specific figures for your Hotel.

Except as otherwise described above, all payments are non-refundable. We do not offer financing for any part of your initial investment. Payments made to other parties may or may not be refundable based upon your agreements with them.

*Remainder of Page Intentionally Left Blank.*

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

Purchases According to Brand Standards

You must operate the Hotel according to our Brand Standards, which means the standards and specifications adopted from time to time by us and included in the manuals for Brand Hotels, including all of the standards, specifications, drawings and designs related to the construction, fitting-out, equipping, and operation of a Brand Hotel, initial and ongoing training requirements, the use of our (or our affiliate's) GEM reservation system (or any replacement system) for group stays and events at the Hotel, our IT standards, as well as any equipment and technical specifications issued by us from time to time. Our standards and specifications may impose minimum requirements for delivery, performance, reputation, prices, quality, design, and appearance, among other factors. You must ensure that your Hotel strictly complies with all applicable laws and maintains adequate insurance policy coverage in the amounts that we periodically specify. Our manuals or other communications will identify our standards and specifications and/or names of approved suppliers. We may also regulate, the types, models, and brands of products and services your Hotel uses; required and authorized products and services that the Hotel must offer to customers and quality standards for those products and services; and designated and approved suppliers of these products and services, which may include or be limited to us and/or our affiliates that we may designate, in which case you must acquire certain items and services for your Hotel only from us and/or our affiliates at the prices we and they decide to charge. In providing these and other products and services to you, we and our affiliates have the right to charge prices that exceed our and their costs and include a profit margin.

Required Purchases from Us or Our Affiliates

Currently we (or our affiliates) are the only designated suppliers for the following IT related products and services:

- Certain Technical Assistance for Hardware Support (including for the POS System)
- Computer Antivirus Software and Cybersecurity Protection
- Microsoft and Windows Licenses
- Support for External Learning Site
- POS and PMS software
- Technical Assistance for Hardware Support for POS System
- Centralized Support and Maintenance of PMS Software
- Support of TMS System Interface
- CRS (Centralized Reservation Service) Distribution

Because we or one or more of our affiliates are suppliers of the above products and services and because some of our officers may (either directly or indirectly) own an interest in us, those officers may own (either directly or indirectly) an interest in a supplier. None of our officers own an interest in any other suppliers and there are no other products or services for the Hotel that you must buy or lease from us or one of our affiliates or for which we or one of our affiliates is an approved supplier or the only approved supplier.

## Process for Purchasing From Suppliers

Other than as described above, we do not have any designated suppliers that you are required to use. We will, however, consider and approve or disapprove of suppliers you propose to us. If you want to purchase products from a supplier who is not yet an approved supplier, then you must first provide us with all information and samples that we may reasonably request to assess the supplier's ability to meet the applicable Brand Standards. We may approve or disapprove any proposed supplier, may approve a supplier conditionally and we may revoke any approval. We may charge you for our costs to review your request and to evaluate the product, service and/or source. We will provide comments to you within a reasonable timeframe. You may not buy any FF&E or other equipment or services from a supplier not approved by us. We are not going to provide a nominated supplier list so we consider that only in the case we provide a nominated option we can define extra costs for analyzing other options.

## Mandatory marketing, reservation services, rate and room inventory management, etc.

You also must participate in and comply with the terms of all of our mandatory marketing, reservation service, rate and room inventory management, advertising, cooperative advertising, guest frequency and loyalty, social responsibility, discount (including loyalty discount) or promotional, training and operating programs. You must sign and comply with any license, participation and other agreements we periodically specify relating to these programs.

## Renovations

You must also establish and maintain a separate account that you control in an amount equal to the greater of (i) the amount required by your lender, or (ii) four percent (4%) of the Hotel's Gross Rooms and Banquet Sales each year. You will use these funds only for the purpose of making approved renovation expenditures and complying with our upgrade requirements and other obligations, although you may be required to spend more than the amount then in that account.

## Revenue from Franchisee Purchases

We and our affiliates may receive rebates, commissions, payments, benefits and other material consideration from suppliers on account of their actual or prospective dealings with you and other franchisees and owners of Brand Hotels. We began offering franchises in the United States on January 16, 2024. Therefore, for the fiscal year ended December 31, 2023, neither we nor our affiliates received any revenues from the sale of goods or services to franchisees operating in the United States (because there were none), whether directly or through rebates from approved third party suppliers. However, we reserve the right to do so in the future.

## Cooperatives

We do not have any purchasing or distribution cooperatives.

## Purchasing Arrangements

We or our affiliates have negotiated purchase arrangements (including price terms) with suppliers on behalf of the System. In doing so, we or our affiliates seek to promote the overall interests of our franchise network and our interests as part of the NH Hotel Group. In some instances, rebates offered by these suppliers may result in a reduction in the cost of the product and this reduction in cost may be shared with everyone who purchases under the agreement. We and our affiliates may retain other rebates to compensate us (or them) for the efforts in negotiating and administering these purchase programs.

## Required Purchases Relative to Total Costs

We estimate that the cost of the purchases and leases you must make through us, our affiliates, and approved suppliers, or in accordance with our Brand Standards represent approximately 25% of the total cost of all purchases and leases (excluding land) required to establish a Brand Hotel and approximately 25% of the total annual cost of purchases and leases required to operate a Brand Hotel.

## Material Benefits

We do not provide you with any material benefits (for example, renewal or granting additional franchises) based on your purchase of particular products or services or use of particular suppliers.

## **ITEM 9 FRANCHISEE'S OBLIGATIONS**

**This table lists your principal obligations under the franchise and other agreements. It will help you find more detailed information about your obligations in these agreements and in other items of this disclosure document.**

<b>Obligation</b>	<b>Section in Agreement</b>	<b>Disclosure Document Item</b>
a. Site selection and acquisition/lease	Franchise Application; Introduction, Sections 1, 2, 4, 23.2.1 and Exhibits A (Basic Terms) and B (Conversion Addendum) in Franchise Agreement	7 and 11
b. Pre-opening purchases/leases	Section 4 in the Franchise Agreement	5, 7, 8 and 11
c. Site development and other pre-opening requirements	Sections 2 and 4 in the Franchise Agreement	5, 7, 8 and 11
d. Initial and ongoing training	Section 5 in the Franchise Agreement	5, 6, 7 and 11

<b>Obligation</b>	<b>Section in Agreement</b>	<b>Disclosure Document Item</b>
e. Opening	Section 4.6 and Exhibits A (Basic Terms) and B (Conversion Addendum) in Franchise Agreement	11
f. Fees	Franchise Application; Section 7 and Exhibit B (Conversion Addendum) in the Franchise Agreement; Sections 1.1, 2.2 and 3 in the Statement of Services Agreement	5, 6, 7, 8 and 11
g. Compliance with standards and policies/operating manual	Sections 4, 5, 6 and 8 in the Franchise Agreement; Sections 3.1.2 and 3.3 of the Data Protection Agreement	6, 8, 11, 13, 14 and 15
h. Trademarks and proprietary information	Sections 6 and 8 in the Franchise Agreement	11, 13 and 14
i. Restrictions on products/services offered	Section 6 in the Franchise Agreement; Introduction Paragraph in Statement of Services Agreement; Sections 5, 6 and 7 of the Data Protection Agreement	1, 8, 11 and 16
j. Warranty and customer service requirements	Section 4.2, 6 and 10 in the Franchise Agreement	11 and 16
k. Territorial development and sales quotas	Section 2 in the Franchise Agreement	12
l. Ongoing product/service purchases	Section 6 in the Franchise Agreement	5, 6, 7, 8 and 11
m. Maintenance, appearance, and remodeling requirements	Sections 4, 6.3 and 6.4 of the Franchise Agreement	6, 8, 11 and 16
n. Insurance	Section 11.1 and Exhibit D (Insurance Requirements) in the Franchise Agreement	6, 7 and 8
o. Advertising	Sections 6.9 and 7.3 in the Franchise Agreement	6, 8 and 11
p. Indemnification	Section 17.2 in the Franchise Agreement; Section 18.5 of the Data Protection Agreement	6

<b>Obligation</b>	<b>Section in Agreement</b>	<b>Disclosure Document Item</b>
q. Owner's participation/management/staffing	Sections 6.1, 6.2 and Exhibit A (Basic Terms) in the Franchise Agreement	5, 7, 11 and 15
r. Records and reports	Section 9 in the Franchise Agreement; Section 1.1 (First Note Following Table) in the Statement of Services Agreement; Section 10 in the Data Protection Agreement	1, 6
s. Inspections and audits	Sections 4.7, 6.12, 9 and Exhibit B (Conversion Addendum) in the Franchise Agreement; Section 14.4, Module 2 (Section 8.9), Module 4 (Section 7.3) in the Data Protection Agreement	1, 6
t. Transfer	Section 12 in the Franchise Agreement	6 and 17
u. Renewal	Section 3.2 and 3.4 in the Franchise Agreement	6 and 17
v. Post-termination obligations	Section 15 in the Franchise Agreement; Module 1 (Section 16), Module 2 (Section 16) and Module 4 (Section 15) in the Data Protection Agreement	1, 6, 13, 14 and 17
w. Non-competition covenants	Not Applicable	17
x. Dispute resolution	Section 22 in the Franchise Agreement; Module 1 (Sections 17 and 18) Module 2 (Sections 17 and 18) and Module 4 (Sections 16 and 17) in the Data Protection Agreement	6 and 17

**ITEM 10**  
**FINANCING**

Neither we nor our affiliates offer direct or indirect financing. Neither we nor our affiliates guarantee your note, lease or obligation.

**ITEM 11**  
**FRANCHISOR’S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING**

**Except as listed below, we are not required to provide you with any assistance:**

Before you begin operating the Hotel, we will:

1. Approve a site for the Hotel that meets our requirements. We do not provide any site selection assistance or specify an area within which you may look for a site. We do not own hotel premises and lease them to franchisees. In determining whether to approve a site, we consider the following factors: location, distribution, connectivity, city size, culture, among others. You may not develop a Brand Hotel at a site that we do not approve. We and you will not sign a Franchise Agreement until you have located, and we have approved the Hotel’s site. (Franchise Agreement Introduction, Sections 1, 2, 4, 23.2.1 and Exhibits A (Basic Terms) and B (Conversion Addendum))

2. If the Hotel is a conversion property, then before you sign a Franchise Agreement with us, provide to you a PIP. The PIP will identify all improvements that must be completed to conform the Hotel to Brand Standards. (Franchise Agreement Sections 1, 4.1 and Exhibit B (Conversion Addendum))

3. Communicate our then current Brand Standards for designing and developing a Brand Hotel, including the design and construction standards. We may also provide to you a prototypical set of standard plans and specifications for Brand Hotels. If provided, these prototypical plans will not contain the requirements of any federal, state or local law, code or regulation, including the Americans With Disabilities Act or similar rules governing accommodations for persons with disabilities, nor will these plans contain the requirements of, or be used for, construction drawings or other documentation necessary to obtain permits or authorizations to build a specific Brand Hotel. (Franchise Agreement Sections 1 and 4.1)

4. Provide to you certain Technical Services, including relating to: (a) the design and construction of the Hotel; (b) the design of the FF&E and OS&E for the Hotel; and (c) activities which must be undertaken so that the Hotel can function in an appropriate and orderly manner as a Brand Hotel. These Technical Services will include: (Franchise Agreement Sections 4.2, 7.5 and Exhibit C (Technical Services))

Pre-Opening Technical Services	Description
Pre-Construction Support	<p>Before you begin construction on your Hotel, we will provide you with assistance relating to the following (however, you are ultimately responsive for ensuring that your construction, build-out and/or conversion of the Hotel complies with all applicable laws):</p> <ul style="list-style-type: none"> <li>• Hotel’s design and layout (including review of your concept</li> </ul>

Pre-Opening Technical Services	Description
	<p>design proposal);</p> <ul style="list-style-type: none"> <li>• Finishing materials to be used at the Hotel;</li> <li>• Interior design of the Hotel, (including review of your concept design proposal and room mock-up);</li> <li>• Selection of consultants that you will hire to assist in the construction and development of your Hotel;</li> <li>• Technical systems (HVAC, water, electricity, gas and other special facilities) in accordance with the Brand Standards; and</li> <li>• General recommendations to align the Hotel construction with Brand Standards.</li> </ul>
Construction Support	<p>During construction of your Hotel, we will provide you with assistance relating to the following (however, you are ultimately responsive for ensuring that your construction, build-out and/or conversion of the Hotel complies with all applicable laws):</p> <ul style="list-style-type: none"> <li>• Execution of any conversion work and recommendations at the time of the pre-acceptance, acceptance and delivery of the works, including punch lists, handover documents index and systems set up assistance of the Hotel.</li> <li>• Preparation of punch lists relating to (i) the Hotel’s compliance with the Brand Standards and (ii) matters that may impact the operation of the Hotel;</li> <li>• Communications relating to defects and issues of non-compliance and the possible resolutions.</li> </ul>

5. Review your proposed concept design for the Hotel (the “**Concept Design Proposal**”) and your proposed mock-up of the Hotel’s contemplated rooms, including all renderings, materials, finishes, FF&E and any other information that we specify (the “**Room Mock-up**”). (Franchise Agreement Sections 4.3).

6. Review progress reports that we may require during construction of the Hotel and participate in meetings with you to monitor your construction progress. We may also visit the Approved Site at any time to inspect the work. If we believe that the construction does not fully comply with our Brand Standards, then we may notify you of the deficiencies, and you must correct them promptly. (Franchise Agreement Section 4.4)

7. Identify the brands, types, makes and/or models of FF&E, OS&E and other items (including both products and services) that meet our Brand Standards and, if we require, designated and approved suppliers of these items. We may provide you with the names of approved suppliers for some items. Our Brand Standards or Manuals provide our standards and specifications for some items. (Sections 1, 4.5, 6.3 and 6.5 of Franchise Agreement)

8. Review your proposed FF&E and interior design plan. As the same time that you submit to us your Concept Design Proposal and Room Mock-Up, you must also submit to us for our review and approval your proposed FF&E and interior design plan. You must not acquire or install any non-standard FF&E or interior design elements or packages without our prior written approval. You may not acquire or install any non-standard FF&E or interior design elements without our prior written approval (including any applicable re-inspection fee). (Franchise Agreement Section, 4.5)

9. Review and approve a pre-opening marketing program that you prepare according to our requirements. (Franchise Agreement Section 6.9.1)

10. Conduct an on-site visit to the Hotel to determine whether the Hotel satisfies our Brand Standards. After this on-site visit, we may authorize you to open the Hotel and install the outside signage or we may withhold authorization to open the Hotel pending the completion of additional work. If the on-site visit reveals material adjustments which need to be made by you, we may extend the projected opening date for your Hotel. If the on-site visit reveals minor adjustments to be made by you and we do not consider it necessary to postpone the projected opening date for your Hotel, you must implement those minor adjustments in a timely manner. (Franchise Agreement Section 4.6)

11. Conduct additional pre-opening inspections. In addition the on-site visits described above, we may also undertake additional on-site inspections or visits to review whether the Hotel's development, construction, and renovation is in accordance with the Franchise Agreement, the Brand Standards, the PIP and the Manuals. We may designate in the Manuals the required scores and metrics your Hotel must attain during these inspections and visits. (Franchise Agreement Section 4.7)

12. Provide you (and your personnel) with the initial owner orientation, the general manager induction training, and the pre-opening training programs for other Hotel personnel. (Franchise Agreement Section 5) We describe this training later in this Item 11.

13. If you will engage a third-party management company to manage the Hotel, review the proposed management company's qualifications. You cannot engage any management company to manage the Hotel unless we give our consent. (Franchise Agreement Section 6.2)

14. Give you access to the Reservation System. You must use the Reservation System that we designate. You must purchase, install and maintain at the Hotel all equipment necessary for participation in the Reservation System, including any required reservation terminals and related equipment and any future enhancements, additions, substitutions or other

modifications specified by us in the Manuals or otherwise in writing. (Franchise Agreement Sections 6.7 and 10)

15. Give you access to our Manuals (Franchise Agreement Sections 1 and 8.6). The Manuals contain our confidential and proprietary information, and we have the right to modify the Manuals. We include the table of contents for the Manuals in Exhibit D. Exhibit D also states the number of pages devoted to each subject. The total number of pages in the Manuals is 1,341 pages.

16. Authorize your Hotel to open under the Proprietary Marks if you satisfy our pre-opening conditions. We will have no liability to you for the Hotel's construction, renovation or any delay in opening the Hotel. (Section 4.6 of Franchise Agreement)

During your operation of the Hotel, we will:

1. Provide you with supplemental and ongoing training, which may include your participation in conventions, meetings, and other training programs that we periodically specify. (Franchise Agreement Section 5.1.4) We describe this supplemental and ongoing training later in this Item 11.

2. Review your plans and specifications relating to proposed changes, alterations, or renovations of the Hotel. (Franchise Agreement Section 6.4.1)

3. Provide you with a PIP setting out any renovations that the Hotel must undertake and the timeframes in which those renovations must be completed. You must, at your cost, promptly commence and diligently complete the required work in accordance with the PIP (Franchise Agreement Section 6.4.2)

4. Make available advertising, marketing and promotional programs, materials and activities in which your Hotel must participate that we might conduct or require you to undertake. (Franchise Agreement Section 6.9.2)

5. For optional local or regional marketing that you undertake, review the templates that you will use and that are previously approved by us. You must discontinue using any materials or programs that we disapprove. (Franchise Agreement Section 6.9.3)

6. If we maintain (or authorize any other entity to maintain) a website to advertise, market and promote all or a certain group of Brand Hotels, include your Hotel information on that website. (Franchise Agreement Section 6.9.4)

7. Conduct post-opening inspections. We may undertake post-opening inspections or visits to review whether the Hotel's operation, maintenance, management and marketing is in accordance with the Franchise Agreement, the Brand Standards, any applicable PIP and the Manuals. We may designate in the Manuals the required scores and metrics your Hotel must attain during these inspections and visits. (Franchise Agreement Section 6.12)

8. Let you use the Proprietary Marks and our Confidential Information in the operation of your Hotel (Franchise Agreement Section 8)

9. Give you continued access to the Manuals. (Franchise Agreement Section 8.6)

10. Give you continued access to the Reservation System. (Franchise Agreement, Section 10) If you are in default, we may suspend the services of the Reservation System. (Franchise Agreement Section 14)

### Hotel Opening, Timing and Extension

If you are developing a new Brand Hotel, including by adapting an existing building to a new use as a hotel, we estimate that you will open the Hotel approximately 120 days after signing the Franchise Agreement. The time needed to actually open the Hotel may vary depending on the availability of financing, the time required to obtain (and any delays in obtaining) necessary zoning and construction permits, licenses and other documentation for the construction and operation of the Hotel, local conditions during the construction phase and the time needed to successfully complete construction (including any construction delays) and our initial training. You also must meet various interim deadlines for the Hotel's development. If you do not open the Hotel by the required completion date, we may terminate the Franchise Agreement. Upon written notice from you that construction has been completed, we will conduct an on-site visit to the Hotel to determine whether the Hotel satisfies our Brand Standards. After this on-site visit, we may authorize you to open the Hotel as a Brand Hotel and install the outside signage or we may withhold authorization to open the Hotel as a Brand Hotel pending the completion of additional work. If the on-site visit reveals adjustments which need to be made by you, we may extend the projected opening date by an additional 3 months. We are not obligated to extend the opening date. If we extend the time for the opening date, then you will pay to us an extension fee of \$5,000 for each 3-month extension. If the on-site visit reveals minor adjustments to be made by you and we do not consider it necessary to postpone the projected opening date, you must implement those minor adjustments in a timely manner. You must pay all costs associated with signage and visual identity (including the installation costs). (Franchise Agreement Section 4.6)

### Advertising and Marketing

#### General

You must participate in and use, in the manner that we specify, all advertising, marketing and promotional activities, materials and programs that we periodically require. You must, at your expense, participate in and comply with the terms of all advertising and marketing programs and policies required by us or our affiliates for the Brand Hotels (including any Internet advertising and marketing conducted and prescribed by us), in the manner described in the Manuals or otherwise in writing. These programs and policies may include the mandatory participation in the NH DISCOVERY Loyalty Program, which is described in the Notes to Item 6, and any successor or replacement program, a guest satisfaction program, a quality assurance program, internet and other programs designated by us. (Franchise Agreement Sections 6.9 and 6.9.2)

#### Pre-Opening Marketing

Within a timeframe that we and you agree on, you must prepare and submit to us for our approval a written pre-opening marketing program that satisfies our requirements and contemplates spending at \$160,000 during the three-month period covering the first two months before the Hotel's opening date and the first month immediately following the Hotel's opening date. You must change the program as we specific and you must implement the approved program. You cannot undertake a pre-opening marketing program until after we approved it in writing. (Franchise Agreement Section 6.9.1)

#### Approval of Marketing Programs and Materials

Subject to our requirements and at your expense, you may undertake local and regional marketing, advertising and promotional programs for the Hotel. These programs cannot include performance marketing or any activities that compete with the Brand Hotels, hotels operating under our or our affiliates' other brands and properties (these performance marketing activities include brand bidding on search engines, participation in metasearch initiatives, affiliate marketing programs, and retargeting efforts). You may not undertake any marketing campaign for the Hotel without first obtaining our prior written approval. You must ensure that all advertising, marketing, and promotional materials, all public relations plans and programs, and all uses of the Proprietary Marks (defined in Item 13) are conducted in a dignified manner and in accordance with the Brand Standards, including the use of our standard templates (and policies) where applicable, and which may, at our option, require our prior approval of materials (and related marketing initiatives and programs) not previously approved by us. You must stop using any materials, including previously-approved materials, and stop engaging in any marketing plans and programs, including previously-approved marketing plans and programs, within a timeframe that we specify after you receive written notice from us. You may not use guest personal data in conducting marketing, advertising and promotional programs for the Hotel unless conducted by or through us or with our supervision. You are responsible for the reasonable fees that we periodically establish for optional marketing, advertising and promotional materials and programs in which you participate. (Franchise Agreement Section 6.9.3)

The costs and fees associated with the approval of marketing programs and materials is included in Item 6.

#### Websites and Electronic Media.

We may maintain (or authorize any other entity to maintain) a website to advertise, market and promote all or a certain group of Brand Hotels that we periodically specify. You must comply with all Brand Standards relating to any System website, including by providing us all information and other materials concerning the Hotel that we periodically request and promptly notify us whenever any information concerning the Hotel on the website is no longer accurate. We have the final decision about all information or materials appearing on the website. Any social media presence must adhere to our Brand Standards and policies regarding social media. As between us and you, we own all intellectual property rights and other rights in and to the website, including data that visitors supply or the website obtains. We may discontinue the website and/or any of its content (including separate webpages for participating Brand Hotels) at any time. (Franchise Agreement Section 6.9.4)

You may not develop, maintain or authorize any website or other electronic medium (other than as specified by us) that either has the initials “NH” or any similar word, or any of the Proprietary Marks, as part of its domain name or URL or that accepts reservations for the Hotel (other than through an approved link to our designated website) or otherwise sells any products or services associated with the Hotel or any of the Proprietary Marks. You may not register any social media profile, or apply any domain name, develop, maintain or authorize any other website, other online presence or other electronic medium that describes or in any other way promotes the Hotel or displays any of the Proprietary Marks without our written approval. You may, with our approval and subject to compliance with Brand Standards, authorize any third-party travel website or website of yours to list and promote the Hotel together with other hotels. You (directly or through third parties) are not authorized and should refrain from using NH domains/urls or any of the Proprietary Marks domains/urls without our approval. (Franchise Agreement Section 6.9.4)

You are responsible for all costs and fees related to your marketing of the Hotel on websites or electronic media.

#### Advertising and Marketing: Miscellaneous

We are not required to spend any amount on advertising the Brand Hotels in the area or territory where your Hotel is located. There are no advertising councils composed of franchisees who advise us on advertising policies. Franchisees are not required to participate in a local or regional advertising cooperative. Franchisees are not required to contribute to a marketing fund.

#### Computer System

You must purchase or license, install, utilize and maintain at the Hotel, at your cost, all software, hardware and equipment necessary to operate and maintain the computer system and/or data processing systems (including successor systems and improvements to existing systems) specified or required by us (the “**Computer System**”). The Computer System includes but not limited to guest check-in, reservation, property management, revenue and other statistical reporting systems. You also must undertake all enhancements, additions, substitutions or other modifications to the software, hardware and Computer System equipment that we may require. You are responsible for all costs incurred in fulfilling these obligations relating to the Computer System, including data circuit charges, charges for connecting your equipment to our systems and databases, the cost of supplies used in the operation of the equipment, maintenance, help desk, and support services, and for other related expenses. You are also responsible for the payment of all license and other fees required by the terms of any PMS software license agreement, or any other software license agreement required by us. You may not purchase, install, utilize, or maintain any computer software, hardware, or other telecommunications equipment that has not been previously approved in writing by Franchisor. (Franchise Agreement Section 6.10)

The total cost to purchase the Computer System and Reservation System generally ranges from \$250,000 to \$1,000,000 and includes the cost of hardware, and software. We have no obligation to provide ongoing maintenance, repairs, upgrades, or updates to any of the systems you use, including the Computer System. These costs will be subject to any third-party

maintenance contracts that you might enter into with vendors. These vendors will charge you directly for providing these maintenance, updating, upgrading and support services that they provide to you. Because of varying market conditions and types of maintenance and support contracts, we are unable to estimate the annual cost of any optional maintenance, updating, upgrading or support contracts. Except as described here, neither we, nor our affiliates, nor any third parties are required to provide ongoing maintenance, repairs, upgrades, or updates. Except as described here, there are no optional or required maintenance/upgrade contracts for your systems. These costs can change depending on the condition of the Hotel and whether it is a new construction.

You must maintain security arrangements which are sufficient to: (i) prevent attacks to the IT system and the information and data, including guest information; (ii) ensure the availability of your local IT system to our (or our designee's) 24 hours a day, 7 days a week, 365 days a year; (iii) protect the integrity and security of personal data and information (including credit card information); (iv) ensure that personal data and information is not lost, altered, destroyed, corrupted or (without appropriate authorization) disclosed; (v) ensure that there is not breach of confidentiality; and (vi) in case of any IT security problem, immediately notify us. You must also maintain compliance with the then current PCI DSS. (Franchise Agreement Section 6.11)

You must permit 24 hours per day, 7 days per week, electronic communications between us and you. We will have unlimited remote independent access to your databases through our connections with the PMS and Reservation Systems. There are no limitations on our right to use the software to access the information and data you maintain.

### Training

We have established training programs for our franchisees and certain personnel who perform key functions at the Brand Hotels. We may conduct training either in person (at a location that we designate, which might include your Hotel or another Brand Hotel), online and/or virtually. We currently estimate that the training fees for all pre-opening training will range from \$75,000 to \$120,000 depending on the characteristics of the Hotel and the number of your personnel who attend training. We may offer optional training and we may require supplemental training when for example, systems and operating standards change. The subject matter, time required, location and costs are subject to periodic change. The training fees for this ongoing training (supplemental and optional) depend on the number of your personnel who attend. For ongoing online training, the current fee is approximately \$30 per Hotel personnel participant. For ongoing in-person/virtual training, the current fee is approximately \$250 to \$500 per Hotel personnel participant. In addition to the training fees, you are also responsible for the cost of travel, meals, lodging and miscellaneous expenses incurred by you and your designated attendees to complete these training programs. These fees and ranges also do not include the cost for travel, meal, tax and lodging expenses for our trainers (where the training is conducted in person), for which you are responsible.

In addition to the above-described training, we may require Hotel personnel to participate in meetings, and other training programs that we specify, either in person, online or virtually (as designated by us). We may charge you for the training fees and materials. You pay for any travel, lodging, meal and miscellaneous expenses of your attendees.

All required training must be completed to our satisfaction within the time periods we designate, and verification of successful completion must be presented at our request. If you hire a replacement for any of the categories of personnel who must attend a training program, the replacement must successfully complete the appropriate training program.

Our instructors and presenters generally have a minimum of 2 to 5 years' experience in the subject taught. We use a variety of instructional materials in connection with our training programs, including Manuals, videos, self-paced e-learning, and print and virtual handbooks. We may modify these materials or use other materials for the training programs.

Online programming is self-paced training that attendees can access any time through a learning site via laptop/mobile.

Any training provided by us to any of your employees will be limited to training or guiding the employees regarding the delivery of approved services in a manner that reflects the brand standards. You are, and will remain, the sole employer of your employees during all training programs, and you are solely responsible for all employment decisions and actions related to your employees. It is your obligation to ensure that your employees receive adequate training.

The follow table describes our training programs:

### **TRAINING PROGRAM**

<b>Subject</b>	<b>Hours of Classroom Training</b>	<b>Hours of On the Job Training</b>	<b>Location</b>
Initial Owner Orientation and Operator Orientation Program (Note 1)	Up to 16 hours	None	In-person, online or virtual
General Manager's Induction Training (Note 2)	Up to 40 hours	None	In-person, online or virtual
Brand & Service Training (Note 3)	Up to 8 hours	None	In-person, online or virtual
Loyalty Program Training (Note 4)	Up to 5 hours	None	Online and virtual
Systems & Business Processes (Note 5)	3-50 hours, depending on the department/position	None	In-person, online or virtual
Brand Standards & Quality	2-4 hours, depending on department	None	On-site, online or virtual

<b>Subject</b>	<b>Hours of Classroom Training</b>	<b>Hours of On the Job Training</b>	<b>Location</b>
(Note 6)			

**Note 1: Initial Owner Orientation and Operator Orientation Program.** Within the time period that we specify (which is currently within 6 months after you sign the Franchise Agreement): (a) your managing owners must attend an initial owner orientation program, and (b) your senior operations officer must attend an operator orientation program, in each case either in person or virtually, as designated by us. If this training will take place in person, then the training will be at a location that we designate. We do not currently charge a fee for this orientation training program, but you are responsible for all related travel costs and living expenses incurred by your designated attendees to complete the orientation program. This training program covers different topics such as introduction to the brand, support functions, strategy, tools, culture and standards.

**Note 2: General Manager’s Induction Training.** General Managers’ Induction Training is currently required at least 3-6 months prior to the anticipated Hotel opening date and covers topics such as brand immersion training, brand expectations, standards, guest experience, processes and procedures, commercial services, operating systems and our loyalty program training.

All general managers who are new to the NH brand must complete this training to our satisfaction. General Manager Induction Training can be virtual and in-person, at a location that we designate. The costs for your general manager(s) to participate in the induction are estimated at \$1,000 per person, plus travel and living expenses, which are your responsibility. If you replace the Hotel’s general manager(s) during the term of your Franchise Agreement, the replacement general manager must attend the orientation program within 30 days after assuming that position.

**Note 3: Brand & Service Training.** Before your Hotel opens, all Hotel staff must complete their respective training on brand and service training in-person, online or virtually. This training covers brand-related operations and brand standards relating to customer service.

**Note 4: NH DISCOVERY Loyalty Program Training.** This training is mandatory for all Hotel staff and is specific to the positions and titles held by the participating Hotel staff members. The subjects covered in this training include member engagement, the role of the Hotel Champions, General Managers, Department Heads, Sales and Marketing, Front Office and Reservations, Food and Beverage, Spa and Recreation and a training for positions in the Back of the House. It also includes a refresher training to be completed 6 months after the initial training for the same roles.

The employees holding certain positions in your hotel including the General Manager, Front Office Manager and the person designated as Hotel Champion should attend in-person, virtual or online training on the NH DISCOVERY Loyalty Program. This session is normally held once a year.

**Note 5: Systems and Business Processes.** Before your Hotel opens, all Hotel staff must complete their respective systems training, together with the operating processes and procedures training. The processes training's detailed plan and contents will be defined in the preopening plan. Departments using TMS systems include Front Office, F&B, Sales, Revenue, Maintenance, Housekeeping, Storekeepers, Administration, Marketing and Spa. We typically send a pre-opening team of 5-10 trainers (at our option) to assist with training the head of departments and Hotel staff on systems and procedures. Duration ranges between 3 to 50 hours depending on the department (around 2 weeks maximum). Some content could be offered virtually or online.

**Note 6: Brand Standards and Quality.** All Hotel staff will receive training related the brand standards and quality covering all services, meeting & events and food a& beverage standards to be implemented in the property. Sessions range between 2 to 4 hours depending on the department and position. Sessions could be delivered in-person, virtual or online or virtually.

## **ITEM 12** **TERRITORY**

You must operate the Hotel only from a specific site that we first approve before you sign a Franchise Agreement with us. You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control. Your rights under the Franchise Agreement are limited to operating the Hotel at the approved site.

We and our affiliates may open and operate, and authorize any other parties to open and operate, other Brand Hotels, or hotels using any part of the NH name, including nhow and NH Collection or any other name or concept developed by us or our affiliates from time to time. Your rights under the Franchise Agreement are nonexclusive in all respects, the Hotel has no territorial protection whatsoever, and we and our affiliates have the right without restriction to engage in any and all activities we and they desire (including with respect to any and all types of lodging facilities). We and our affiliates may exercise these rights at any time and place, whether or not using the Marks or any aspect of the System, and whether or not those activities compete with your Hotel. We and our affiliates may use or benefit from, among other things, common computer systems, administrative systems, reservation systems, purchasing systems, and personnel. You will have no right to pursue any claims, demands, or damages as a result of these activities, whether under breach of contract, unfair competition, implied covenant of good faith and fair dealing, divided loyalty, or other theories.

In some situations, we may agree to give franchisees certain territorial protections within an area surrounding the franchised Brand Hotel (the “**Area of Protection**”). If we agree to give you an Area of Protection, it will normally be for an agreed-on time period, which is shorter than the term of the Franchise Agreement (the “**AOP Term**”). The following will apply if we agree to give you an Area of Protection in your Franchise Agreement:

- (1) During the AOP Term, neither we nor our affiliates will open and operate, nor authorize any other party to open and operate, another Brand Hotel the physical premises of which is located within the Area of Protection. The one exception to this restriction is that, during the AOP Term, if we or any of our affiliates acquires ownership of or the right to operate or manage (regardless of the form of transaction) another group of at least 5 hotels, 1 or more of which hotels are located or are under contract or construction to be located in the Area of Protection, then we and/or our affiliates will have the unrestricted right to convert, or cause to be converted, the acquired hotel(s) within the Area of Protection from its (or their) original trade identity to operate under the Proprietary Marks and the System, and thereafter to operate or authorize any other party to operate those hotel(s) as Brand Hotels, even if 1 or more of the other acquired hotels, whether operating within or outside the Area of Protection, are not converted to Brand Hotels. For clarity, the restrictions in this paragraph apply only to a hotel operated as a Brand Hotel and do not apply to any hotel, residence, extended stay, condo-hotel or other accommodation operated, managed or licensed by us or our affiliates (including any NH Affiliated Hotel Group hotels other than Brand Hotels) or utilizing any other brand including any of the brands listed in Item 1.

- (2) Except for the limited exclusivity provided above, your rights under the Franchise Agreement are nonexclusive in all respects, the Hotel has no territorial protection whatsoever, and we and our affiliates have the right without restriction to engage in any and all activities we and they desire (including with respect to any and all types of lodging facilities), at any time and place, whether or not using the Proprietary Marks or any aspect of the System, and whether or not those activities compete with the Hotel.
- (3) Your rights in an Area of Protection apply only so long as your Franchise Agreement remains in full force and effect and only during the AOP Term. Following the AOP Term, You will have no territorial rights or protection whatsoever, whether within or outside the Area of Protection, and we and our affiliates may open and operate, and authorize any other parties to open and operate, other Brand Hotels the physical premises of which are located within the Area of Protection, including under a franchise and other agreement signed during the AOP Term.

You have no options, rights of first refusal or similar rights to acquire additional franchises. Continuation of your territorial rights does not depend on your achieving a certain sales volume, market penetration or other contingency.











There are no restrictions on where you or other Brand Hotel operators (including us and our affiliates) may solicit customers or accept orders. We and our affiliates may use other channels of distribution, such as the Internet, catalog sales, telemarketing, or other direct marketing, to make sales under the Marks and other trademarks without compensating you. Except for the Reservation System, you may not use the Internet or any other method to accept reservations for the Hotel.

As described in Item 1, we or certain of our affiliates operate and/or grant franchises for various types of hotel facilities, other accommodations and hospitality affiliations that operate under the NH name and other trade names. If conflicts arise between our franchisees and the franchisees and operators of these other facilities, we will analyze them and take the actions (if any) that we deem appropriate. We also may (but need not) develop internal policies for dealing with such conflicts.

*Remainder of Page Intentionally Left Blank.*

**ITEM 13**  
**TRADEMARKS**

You may use the “**Proprietary Marks**” in operating the Hotel. As mentioned in Item 1, our parent company, NHHG has registered, or has applied for registration of, the following principal Proprietary Marks on the Principal Register of the United States Patent and Trademark Office (the “PTO”):

DESCRIPTION OF MARK	REGISTRATION OR APPLICATION NUMBER	PRINCIPAL OR SUPPLEMENTAL REGISTER	REGISTRATION OR APPLICATION DATE
NH HOTELS	7039856	PRINCIPAL	02.05.2023
NH DISCOVERY	7009459	PRINCIPAL	28.03.2023
	97473258	PRINCIPAL	23.06.2022 (PENDING)
	3837160	PRINCIPAL	24.08.2010
NH	5377379	PRINCIPAL	16.01.2018
NH	3840471	PRINCIPAL	31.08.2010
	97473245	PRINCIPAL	23.06.2022 (PENDING)
	98203318	PRINCIPAL	29.09.2023 (PENDING)
	98247553	PRINCIPAL	31.10.2023 (PENDING)
	98217475	PRINCIPAL	10.10.2023 (PENDING)
	4686404	PRINCIPAL	17.02.2015
	98216646	PRINCIPAL	10.10.2023 (PENDING)
	98217468	PRINCIPAL	10.10.2023 (PENDING)
	4865047	PRINCIPAL	8.12.2015

We do not have a federal registration for all of our principal trademarks. Therefore, our trademarks do not have as many legal benefits and rights as a federally registered trademark. If our right to use the trademark is challenged, you may have to change to an alternative trademark, which may increase your expenses.

For the registered Proprietary Marks listed in the table above, NHHG has made all required renewal and affidavit filings for these registrations.

NHHG has licensed us to use the listed Proprietary Marks and to grant our franchisees the right to use them in the United States under a License Agreement with us dated January 10, 2024. (the “**License Agreement**”). The License Agreement does not provide for an expiration date and gives either party the right to terminate the License Agreement at any time upon 30 days’ notice. If the License Agreement is terminated during the term of your Franchise Agreement, then NHHG will assume our obligations under the then-existing franchise agreements (including your Franchise Agreement). Other than the License Agreement, there are no agreements which significantly limit our right to use or license the use of the Proprietary Marks.

There are no currently effective material determinations of the PTO, the Trademark Trial and Appeal Board, any state trademark administrator or any court, and no pending infringement, opposition or cancellation proceedings or other material federal or state court litigation, involving the Marks. We do not know of any superior prior rights or infringing uses that could materially affect your use of the Marks in any state.

You must follow our rules when using the Proprietary Marks. If we discover your unauthorized use of the Proprietary Marks, we may require you to destroy (with no reimbursement from us) all offending items reflecting that unauthorized use. You must notify us immediately of any apparent infringement or challenge to your use of any Proprietary Mark, or of any person’s claim of any rights in any Proprietary Mark, and not communicate with any person other than us, our affiliates, and our and their attorneys, and your attorneys, regarding any infringement, challenge, or claim. We and our affiliates may take the action we and they deem appropriate (including no action) and control exclusively any litigation, PTO proceeding, or other proceeding arising from any infringement, challenge, or claim or otherwise concerning any Proprietary Mark. You must sign any documents and take any other reasonable actions that, in the opinion of our and our affiliates’ attorneys, are necessary or advisable to protect and maintain our and our affiliates’ interests in any litigation or PTO or other proceeding or otherwise to protect and maintain our and our affiliates’ interests in the Proprietary Marks. We will reimburse your reasonable out-of-pocket costs for taking any requested action.

If it becomes advisable at any time for us and/or you to modify, discontinue using, and/or replace any Proprietary Mark and/or to use one or more additional, substitute, or replacement trade or service marks, you must comply with our directions within a reasonable time after receiving notice. Neither we nor our affiliates will reimburse you for any costs or expenses you incur relating to these directions, including your expenses of changing the Hotel’s signs, any loss of revenue due to any modified or discontinued Proprietary Mark, or your expenses of promoting a modified or substitute trademark or service mark. Our rights in this paragraph apply to any of the Proprietary Marks (and any portion of any Proprietary Mark) that we authorize you to use.

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

We and our affiliates possess (and will continue to develop and acquire) Confidential Information, some of which constitutes trade secrets under applicable law, relating to developing and operating Brand Hotels. “**Confidential Information**” means all Intellectual Property Rights, proprietary software, the contents of the Manuals, and any and all other know-how, materials, information, data (including guest personal data) procedures, or techniques which we or our affiliates provide in connection with the development, construction and operation of the Hotel as a Brand Hotel, including site selection, operational, sales, promotional, and marketing methods and techniques. Confidential Information does not include information that you can demonstrate came to your attention by proper means before disclosure by us or our affiliates, or which, at or after the time of disclosure, had become or later becomes a part of the public domain, through proper publication or communication by others and which does not violate the Franchise Agreement or any agreement we or our affiliates may have with a third party. “**Intellectual Property Rights**” means all intellectual property rights (whether registered or unregistered and existing anywhere in any jurisdiction) such as trademarks (including to the Proprietary Marks), trade names, designs, patents, copyrights, domain names, protection conferred to software and database rights (including rights in the databases owned by us or our affiliates), forming part of and used in connection with the operation of the Brand Hotel chain.

You must promptly disclose to us all Innovations and those Innovations will be deemed to be our sole and exclusive property, part of the System, and works made for hire for us. “**Innovations**” means inventions, innovations and discoveries relating to the Brand Hotels and based or relying upon any element of the System, including any advertising, marketing, promotional or public relations plans, programs or materials that you or your contractors develop for the Hotel. You may not use any Innovation in operating the Hotel or otherwise without our prior written consent. If any Innovation does not qualify as a “work made for hire” then you must assign ownership of that Innovation, and all related intellectual property rights and other rights to that Innovation, to us and you must take whatever action (including signing assignment or other documents) that we request to evidence our ownership or to help us obtain intellectual property rights in the Innovation.

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

Hotel Management

Either a management company we approve, or you (if we approve you to manage the Hotel), must at all times retain and exercise direct management control over all aspects of the Hotel’s business and be the employer of the Hotel’s core management and other personnel. You may not enter into any lease, management agreement, or other similar arrangement with any management company for the management or other oversight of all or a part of the Hotel’s operation (a “**Management Arrangement**”) without our prior written approval of the management company, and you may not yourself manage the Hotel without our approval of you as the Hotel’s operator. We will not unreasonably withhold our approval if the management

company or you (as applicable) meets our minimum qualifications and ensures that its or your personnel attend and satisfactorily complete required brand standard training programs. You must cause any management company to: (i) provide us with all information that we reasonably request to enable us to evaluate the management company’s qualifications, and (ii) provide to us, at our request, any management agreement for the Hotel for the purpose of allowing us to confirm that the management agreement is consistent with the terms of the Franchise Agreement.

Guaranty

We expect that only business entities, and not individuals, will sign our Franchise Agreement. You must cause one or more of the direct and indirect owners (whether they are individuals or business entities) in you which we specify to sign the form of Guaranty attached to the Franchise Agreement (the “**Guaranty**”). Under the Guaranty, these owners must personally guaranty all of your obligations under the Franchise Agreement and be personally bound by, and personally liable for the breach of, every provision of the Franchise Agreement, both monetary and non-monetary, including the confidentiality and arbitration obligations.

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

Under the Franchise Agreement, you must offer all products and provide all services that we periodically authorize for your Hotel in compliance with all applicable laws and according to our quality standards. We may change these products and services at any time, and there is no limit on this right. You may not sell any products or perform any services at the Hotel that we have not authorized. The Franchise Agreement contains no restrictions on the customers to whom you may provide goods and services.

**ITEM 17**  
**RENEWAL, TERMINATION, TRANSFER, AND DISPUTE RESOLUTION**

**THE FRANCHISE RELATIONSHIP**

**This table lists certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this disclosure document.**

<b>Provision</b>	<b>Section in franchise or other agreement</b>	<b>Summary</b>
a. Length of the franchise term	Section 3.1 in Franchise Agreement (FA); Section 4 of the Data Protection Agreement (DPA)	FA: 15 years after the Hotel opens for business DPA: The term of the Franchise Agreement

Provision	Section in franchise or other agreement	Summary
b. Renewal or extension of the term	Sections 3.2, 3.3 and 3.4 in the FA	FA: if you: (1) have substantially complied with the Franchise Agreement and you remain in full compliance; (2) meet our then applicable standards for franchisees; (3) have the right to maintain possession of the Hotel for at least 10 years following the expiration date of the Franchise Agreement, then we will offer you the right to enter into a renewal franchise agreement to continue operating the Hotel as a Brand Hotel for a term commencing immediately upon the expiration date and ending 10 years from that date.
c. Requirements for franchisee to renew or extend	Sections 3.2, 3.3 and 3.4 in the FA	FA: In order to renew, you must timely notify us, renovate, remodel and/or expand the Hotel (which may include structural alterations) as required; comply with the System and Brand Standards then applicable for new similarly situated Brand Hotels; remain in compliance; pay then current application fee; sign then current form of franchise agreement (whose terms may differ from the Franchise Agreement form attached to this Disclosure Document) and any ancillary agreement; sign a release (if state law allows). <b>“Renewal”</b> means signing our then-current franchise agreement for the 10-year renewal term, which could contain materially different terms (including fees).
d. Termination by franchisee	Not Applicable	You may not terminate the Franchise Agreement except as the law allows.
e. Termination by franchisor without cause	Not Applicable	We may not terminate the Franchise Agreement without cause.
f. Termination by franchisor with cause	Section 13 in FA; Section 4 in the Statement of Services Agreement (SA); Module 1 (Section 16), Module 2 (Section 16) and Module 4 (Section 15) in DPA	FA: We have the right to terminate the Franchise Agreement if you (or your guarantors) commit certain defaults. SA: The SA will immediately terminate if the underlying agreement with GHA terminates; we can also terminate the SA if the Hotel is no longer part of the franchise system. DPA: We can terminate if you are in breach of the DPA or if you are unable to comply.

Provision	Section in franchise or other agreement	Summary
g. "Cause" defined – curable defaults	Section 13.2 in FA	FA: Under the Franchise Agreement we can terminate if you fail to correct the following defaults within 30 days after notice from us: failure to begin or complete any renovation, repair, remodeling of the Hotel as required under the Franchise Agreement or the Brand Standards; Failure to pay any amounts due under the Franchise Agreement; Failure to comply with the Brand Standards; unauthorized disclosure of Confidential Information (including any information contained in the Manuals) and failure to remedy the disclosure in a manner acceptable to us; improper use of Proprietary Marks, Confidential Information or the System; or any failure to perform, keep or fulfill all or any portion of the material terms, covenants, undertakings, obligations or conditions in the Franchise Agreement (including failure to timely open the Hotel).
h. "Cause" defined – non-curable defaults	Section 13.1 in FA	FA: We can immediately terminate the Franchise Agreement for: an insolvency event; you (or any guarantor or any other person or entity that has an ownership interest in you or guarantor), is or becomes a Specially Designated National or Blocked Person; any action that constitutes a violation of applicable law that adversely affects the Hotel or its operation under the System; unauthorized transfer; you lose right to operate the Hotel or lose the right to possession of the Hotel; the Hotel ceases to operate as a Brand Hotel; after receiving a notice of underpayment from us, you under report or understate Gross Rooms and Banquet Sales once or more within any 24-month period of such notice of underpayment; you permit a threat to public health or safety to occur from the condition of the Hotel or its operation, that in our opinion could result in (a) substantial liability, or (b) an adverse effect on the Hotel, other Brand Hotels, or the Proprietary Marks and you fail to close the Hotel and remedy the condition on notice from us.

Provision	Section in franchise or other agreement	Summary
i. Franchisee's obligations on termination/non-renewal	Section 15 in FA; Module 1 (Section 16), Module 2 (Section 16) and Module 4 (Section 16) in DPA	FA: You must pay all amounts owed; stop using the Proprietary Marks, System and operating as a Brand Hotel; remove, return or destroy Brand Standards, Confidential Information, marketing materials, other printed materials, interior and exterior signs, FF&E; pay liquidated damages DPA: You must advise any supervisory authority of any non-compliance
j. Assignment of contract by franchisor	Section 12.1 in FA	FA: We can assign the Franchise Agreement, any interest in the Franchise Agreement or our ownership or form to any person or entity without notice to you and without your consent.
k. "Transfer" by franchisee-defined	Sections 1 in FA	FA: " <b>Franchisee Transfer</b> " means, in one or a series of transactions, any voluntary or involuntary (a) sale, assignment, conveyance or other transfer of all of the Hotel or any interest therein or of Franchisee's rights under the Agreement (including any lease); (b) sale, assignment, conveyance, or other transfer of any ownership interest in Franchisee or (c) transfer of the Franchise Agreement (or any interest of yours under the Franchise Agreement)
l. Franchisor approval of transfer by franchisee	Section 12.3 in FA	FA: You may not undergo a Franchisee Transfer without our consent. You must provide us with at least 30 days' notice of any proposed ownership transfer.
m. Conditions for franchisor approval of transfer	Sections 12.3 in FA	FA: We will not unreasonably object to a Franchisee Transfer provided that you meet the following conditions: (1) payment by the transferee of the then-current application fee to us with its submission of the application; (2) retention of a Management Company consented to by us if we determine that the transferee is not qualified to operate the Hotel; (3) execution by the transferee of the then-current form of franchise and related agreements. The new franchise agreement will contain the then-current standard terms for new Brand Hotels and the transferee will be subject to the then current franchise disclosure and qualification requirements;(4) a PIP requiring the transferee to address any renovations necessary to comply with the Brand Standards; (5) payment of all amounts due to us and our affiliates and execution of a general release of all claims

Provision	Section in franchise or other agreement	Summary
		against us and our affiliates; (6) the transferee is not a Specially Designated National or Blocked Person or a competitor; and (7) the transferee provides a guaranty.
n. Franchisor's right of first refusal to acquire franchisee's business	Not Applicable	Not Applicable
o. Franchisor's option to purchase franchisee's business	Not Applicable	Not Applicable
p. Death or disability of franchisee	Exhibit F (Guaranty, Section 8) in the FA	FA: On the death of any individual guarantor, the estate will be bound but only for defaults and obligations existing at the time of death.
q. Non-competition covenants during the term of the franchise	Not Applicable	Not Applicable
r. Non-competition covenants after the franchise is terminated or expires	Not Applicable	Not Applicable
s. Modification of the agreement	Section 21 in FA	FA: Franchise Agreement may not be modified except in writing signed by both parties, but we may change the System and the Brand Standards.
t. Integration/ merger clause	Section 21 in FA	FA: Franchise Agreement (including its Exhibits) constitute entire agreement between the parties. Nothing in the Franchise Agreement is intended to disclaim the representations made in this disclosure document that we provided to you. Subject to applicable state law.
u. Dispute resolution by arbitration or mediation	Sections 22.2, 22.3 in FA	FA: After using reasonable efforts to amicably resolve disputes within 30 days' notice, we and you must arbitrate all disputes before the AAA (American Arbitration Association) in New York (subject to applicable state law).

<b>Provision</b>	<b>Section in franchise or other agreement</b>	<b>Summary</b>
v. Choice of forum	Sections 22.3. 22.5 in FA DPA: Module 1 (Section 18) Module 2 (Section 18) and Module 4 (Section 17) in the DPA	FA: Subject to arbitration, federal or state courts within the judicial district in New York, New York (subject to applicable state law) DPA: The courts of Spain
w. Choice of law	Section 22.1 in FA DPA: Module 1 (Sections 17 and 18) Module 2 (Sections 17 and 18) and Module 4 (Sections 16 and 17) in the DPA	FA: New York (subject to applicable state law) DPA: Spain

**ITEM 18**  
**PUBLIC FIGURES**

We do not use any public figure to promote our franchise.

**ITEM 19**  
**FINANCIAL PERFORMANCE REPRESENTATIONS**

The FTC's Franchise Rule permits a franchisor to provide information about the actual or potential financial performance of its franchised and/or franchisor-owned outlets, if there is a reasonable basis for the information, and if the information is included in the disclosure document. Financial performance information that differs from that included in Item 19 may be given only if: (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor supplements the information provided in this Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

We do not make any representations about a franchisee's future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting Ms. Yuan Fang, SVP Development Europe and Americas, at y.fang@nh-hotels.com or +34 91 396 05 43 Ext 1543, or +34 670 57 19 41, the Federal Trade Commission, and the appropriate state regulatory agencies.

**ITEM 20**  
**OUTLETS AND FRANCHISEE INFORMATION**

**Table No. 1**

**Systemwide Outlet Summary**  
**For years 2021 to 2023**

Column 1 Outlet Type	Column 2 Year	Column 3 Outlets at the Start of the Year	Column 4 Outlets at the End of the Year	Column 5 Net Change
Franchised	2021	0	0	0
	2022	0	0	0
	2023	0	0	0
Company- Owned**	2021	1	1	0
	2022	1	1	0
	2023	1	1	0
Total Outlets	2021	1	1	0
	2022	1	1	0
	2023	1	1	0

\*\* Company-Owned outlets include Brand Hotels that are owned or managed by our affiliates.

**Table No. 2**

**Transfers of Outlets from Franchisees to New Owners (other than the Franchisor)**  
**For years 2021 to 2023**

Column 1 State	Column 2 Year	Column 3 Number of Transfers
[All States]	2021	0
	2022	0
	2023	0
<b>Total</b>	<b>2021</b>	0
	<b>2022</b>	0
	<b>2023</b>	0

**Table No. 3**

**Status of Franchised Outlets  
For years 2021 to 2023**

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9
State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations Other Reasons	Outlets at End of the Year
[All States]	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0
<b>Totals</b>	<b>2021</b>	0	0	0	0	0	0	0
	<b>2022</b>	0	0	0	0	0	0	0
	<b>2023</b>	0	0	0	0	0	0	0

**Table No. 4**

**Status of Company-Owned Outlets\*\*  
For years 2021 to 2023**

Column 1	Column 2	Column 3
State	Year	Number of Transfers
[All States]	2021	0
	2022	0
	2023	0
<b>Total</b>	<b>2021</b>	0
	<b>2022</b>	0
	<b>2023</b>	0

\*\* Company-Owned outlets include Brand Hotels that are owned or managed by our affiliates.

**Table No. 5**

**Projected Openings As Of December 31, 2023**

Column 1 State	Column 2 Franchise Agreements Signed But Outlet Not Opened	Column 3 Projected New Franchised Outlet In The Next Fiscal Year	Column 4 Projected New Company-Owned Outlet In the Next Fiscal Year
[All States]	0	0	0
<b>Total</b>	0	0	0

There are no Brand Hotel franchisees operating as of the date of this disclosure document. Therefore, there are no franchisees who had an outlet terminated, canceled, transferred or not renewed or otherwise voluntarily or involuntarily ceased to do business under our Franchise Agreement during our most recent fiscal year, and no franchisees have failed to communicate with us within 10 weeks before this disclosure document's issuance date. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

As of the issuance date of this disclosure document, no franchisees have signed confidentiality clauses that restrict them from discussing with you their experiences as a franchisee in our franchise system during our last 3 fiscal years and there are no trademark-specific franchisee organizations associated with the Brand Hotel franchise system.

**ITEM 21**  
**FINANCIAL STATEMENTS**

Exhibit A contains our audited balance sheet, statements of income, and statements of cash flow as of February 29, 2024, and our unaudited opening balance sheet as of January 12, 2024. We were formed in November 2023, so we have not been in business for three years or more and cannot include all of the financial statements required by the FTC Franchise Rule. Our fiscal year ends on December 31.

**ITEM 22**  
**CONTRACTS**

The following agreements are attached as exhibits to this disclosure document:

- Exhibit B-1 Franchise Application
- Exhibit B-2 Franchise Agreement
- Exhibit B-3 Statement of Services Agreement (NH Discovery Loyalty Program)
- Exhibit B-4 Data Protection Agreement
- Exhibit G State-Specific Additional Disclosures and Riders

**ITEM 23**  
**RECEIPTS**

Our and your copies of the Franchise Disclosure Document Receipt are the last 2 pages of this disclosure document.

**EXHIBIT A**  
**FINANCIAL STATEMENTS**

**NH HOTELS USA FRANCHISE INC**  
**FINANCIAL STATEMENTS**  
**AS OF FEBRUARY 29, 2024**

**NH HOTELS USA FRANCHISE INC.**

**Table of Contents**

<b>Independent Auditors' Report</b>	2-4
<b>Financial Statements</b>	
Balance Sheet	5
Statement of Operations	6
Statement of Changes in Stockholder's Equity	7
Statement of Cash Flows	8
Notes to Financial Statements	9 - 10

## **Independent Auditors' Report**

To the Board of Directors and Stockholder of  
NH HOTELS USA FRANCHISE Inc.  
22 E 38th ST  
New York, NY 10016

### **Report on the Audit of the Balance Sheet**

#### ***Opinion***

We have audited the Balance Sheet of NH Hotels USA Franchise, Inc. as of February 29<sup>th</sup>, 2024.

In our opinion, the accompanying Balance Sheet presents fairly, in all material respects, the financial position of NH Hotels USA Franchise, Inc. as of February 29<sup>th</sup>, 2024, in accordance with accounting principles generally accepted in the United States of America.

#### ***Basis for Opinion***

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the balance sheet section of our report. We are required to be independent of NH Hotels USA Franchise, Inc., and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

New York

### ***Responsibilities of Management for the Balance Sheet***

Management is responsible for the preparation and fair presentation of the balance sheet in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the balance sheet, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about NH Hotels USA Franchise, Inc.'s ability to continue as a going concern for one year after the date that the financial statements are issued.

### ***Auditor's Responsibilities for the Audit of the Balance Sheet***

Our objectives are to obtain reasonable assurance about whether the balance sheet as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in aggregate, they would influence the judgment made by a reasonable user based on the balance sheet.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the balance sheet, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the balance sheet.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of NH Hotels USA Franchise, Inc.'s internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the balance sheet.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about NH Hotels USA Franchise, Inc.'s ability to continue as a going concern for a reasonable period of time.



We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control–related matters that we identified during the audit.



Giuseppe Brusa CPA, LLC  
March 4<sup>th</sup>, 2024  
New York, NY

**NH Hotel USA Franchise LLC.**  
**Balance Sheet**  
**As of February 29, 2024**

2/29/2024

<b>Assets</b>	
<b>Current Assets:</b>	
Cash	\$ 300,717
Promissory Note from Shareholder	1,000
<b>Total Current Assets</b>	<b>301,717</b>
<b>Total Assets</b>	<b>\$ 301,717</b>
<b>Liabilities and Shareholder's Equity</b>	
<b>Total Current Liabilities</b>	\$ -
<b>Total Long-Term Liabilities</b>	-
<b>Shareholder's Equity</b>	
Capital stock	100
Additional Paid in capital	301,842
Net Income	(225)
<b>Total Member's Equity</b>	<b>301,717</b>
<b>Total Liabilities &amp; Member's Equity</b>	<b>\$ 301,717</b>

**NH Hotel USA Franchise LLC.**  
**Statements of Income**  
**For the Period Ended February 29, 2024**

	<u>2/29/2024</u>
Income	\$ -
Bank Charges	<u>225</u>
<b>Income from Operations</b>	<b><u>(225)</u></b>
<b>Income before Corporate Income Taxes</b>	<b>(225)</b>
Corporate Income Taxes	<u>-</u>
<b>Net Income</b>	<b>\$ (225)</b>

**NH Hotel USA Franchise LLC.**  
**Statement of Changes in Stockholder's Equity**  
**For the Period Ended February 29, 2024**

	<b>Capital Stock</b>	<b>Additional Paid-in Capital</b>	<b>Retained Earnings</b>	<b>Total Stockholder's Equity</b>
<b>November 20, 2023</b>	\$ -	\$ -	\$ -	-
Capital Stock	100			100
Contributions		900		900
Net income for the year			-	-
<b>December 31, 2023</b>	\$ <b>100</b>	\$ <b>900</b>	\$ -	\$ <b>1,000</b>
Contributions		300,942		300,942
Net Income / (Loss)			(225)	(225)
<b>February 29, 2024</b>	\$ <b>100</b>	\$ <b>301,842</b>	\$ <b>(225)</b>	\$ <b>301,717</b>

**NH Hotel USA Franchise LLC.**  
**Statements of Cash Flows**  
**For the Period Ended February 29, 2024**

2/29/2024

---

**Cash Flows from Operating Activities:**

Net Income	\$	(225)
Increase (Decrease) in cash flows as a result of changes in asset and liability account balances		-

---

Net Cash Provided by Operating Activities		<u>(225)</u>
---	--	--------------

**Cash Flows from Financing Activities:**

Shareholder Contributions		300,942
---------------------------	--	---------

---

Net Cash Provided by Financing Activities		<u>300,942</u>
---	--	----------------

Net Increase (Decrease) in Cash and Cash Equivalents		300,717
Cash and Cash Equivalents, Beginning of Year		-

---

Cash and Cah Equivalents, End of Year	\$	<u><u>300,717</u></u>
---------------------------------------	----	-----------------------

**Additional Information**

Cash Paid for Interest	\$	-
Cash Paid for Corporate Income Taxes	\$	-

**NH HOTELS USA FRANCHISE, INC.**  
**Notes to Financial Statements**  
**As of February 29<sup>th</sup>, 2024**

**1. Organization**

NH Hotels USA Franchise Inc. (the Company) was incorporated on November 20, 2023, in the State of Delaware. The company is wholly owned by NH Hotel Group S.A. and is engaged to manage the franchising of NH Hotels brand in USA.

**2. Summary of Significant Accounting Policies**

*Accounting Method*

The Company's financial statements are prepared using the accrual method of accounting, whereby income is recorded when earned and expenses recorded when incurred.

*Functional Currency*

The Company's functional currency for all operations is the US Dollar.

*Cash and Cash Equivalents*

The Company maintains its cash in bank deposit account which, at times, may exceed federally insured limits. The bank account was open and is active from February 14<sup>th</sup>, 2024.

**3. Concentration of Credit Risk**

As of February 29<sup>th</sup>, 2024, the Company had \$50,717 cash in banks in excess of Federal Insurance limits. In assessing their risk, Management has established a policy whereby it banks only with reputable financial institutions.

**4. Common Stock**

In 2023 the Company is authorized to issue 10,000 Common shares with Par Value \$ 0.01. All shares have been issued as of February 29<sup>th</sup>, 2024. Additional paid-in-capital amounts to \$301,842 as of February 29<sup>th</sup>, 2024.

**NH HOTELS USA FRANCHISE, INC.**  
**Notes to Financial Statements**  
**As of February 29<sup>th</sup>, 2024**

**5. Subsequent Events**

The Company has evaluated subsequent events through March 4<sup>th</sup>, 2024, the date when the financial statements were available to be issued. Except as mentioned above, there were no other subsequent events or transactions identified that require recognition or disclosure in the financial statements.

## **UNAUDITED FINANCIAL STATEMENTS**

THESE FINANCIAL STATEMENTS HAVE BEEN PREPARED WITHOUT AN AUDIT. PROSPECTIVE FRANCHISEES OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT NO INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT HAS AUDITED THESE FIGURES OR EXPRESSED AN OPINION WITH REGARD TO THEIR CONTENT OR FORM.

**NH HOTELS USA FRANCHISE INC.**

**Balance Sheet**  
**As of January 12, 2024**

	<u>Jan 12, 24</u>
<b>ASSETS</b>	
<b>Current Assets</b>	
Checking/Savings	
Bank Account	1,000.00
<b>Total Checking/Savings</b>	<u>1,000.00</u>
Receivables - Short Term	
Intercompany Receivables	300,000.00
<b>Total Receivables - Short Term</b>	<u>300,000.00</u>
<b>Total Current Assets</b>	<u>301,000.00</u>
<b>TOTAL ASSETS</b>	<u><u>301,000.00</u></u>
<b>LIABILITIES &amp; EQUITY</b>	
Equity	
Capital Stock	301,000.00
<b>Total Equity</b>	<u>301,000.00</u>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<u><u>301,000.00</u></u>

THESE FINANCIAL STATEMENTS HAVE BEEN PREPARED WITHOUT AN AUDIT. PROSPECTIVE FRANCHISEES OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT NO INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT HAS AUDITED THESE FIGURES OR EXPRESSED AN OPINION WITH REGARD TO THEIR CONTENT OR FORM.

**EXHIBIT B-1**  
**FRANCHISE APPLICATION**

**NH HOTEL GROUP  
FRANCHISE APPLICATION**

**1. INTRODUCTION**

Thank you for your interest in the NH Hotel Group brands of hotels. Please complete this Franchise Application (“**Application**”) and submit the completed Application to us. You (and your directors, officers, and shareholders, as applicable) are submitting this Application to us to induce us to grant to you a franchise to operate a brand hotel as designated below, that would operate (if we grant you a franchise) on the terms and conditions in our standard Franchise Agreement.

You should not sign or submit this Application, or pay the Application Fee described below, until at least 14 calendar days after the date the receipt of the Franchise Disclosure Document was signed and dated.

**2. BRAND**

NH Hotel                       NH Collection Hotel                       Tivoli Hotel

**3. APPLICANT INFORMATION**

**Entity Name (or, if Application is an individual, individual’s name):** \_\_\_\_\_

**State in which Applicant’s principal business address (or if Applicant is an individual, permanent residence) is located:** \_\_\_\_\_

**Type of Entity:**

Corporation                       Limited Liability Company                       Limited Liability Partnership  
 Limited Partnership                       Individual                       Other (specify)  
 General Partnership                       Trust

Date of Formation (Month/Day/Year)  (If Applicant is an individual, please provide birthdate)	State of Formation (If entity is formed in another country, please specify)	EIN or other Government Identification Number  (If Application is an individual, please provide last 4 digits of SSN)
_____/_____/_____	_____	_____

<b>Applicant's Principal Contact Information</b>	
<b>Name of Individual Contact:</b>	
<b>Street Address:</b>	
<b>City:</b>	
<b>State/Province:</b>	
<b>Zip/Postal Code:</b>	
<b>Telephone #:</b>	
<b>Fax #:</b>	
<b>Email:</b>	

**4. APPLICATION FEE**

When you submit this Application to us, you must simultaneously pay to us by ACH transfer or another method we designate a non-refundable Application Fee in an amount equal to the greater of \$60,000 or \$500 per guest room.

Please indicate the Application Fee amount that you will pay: \$\_\_\_\_\_

**5. MANAGEMENT INFORMATION**

**THE PROPOSED HOTEL WILL BE MANAGED BY:**

A General Manager who will be employed by the Applicant  
The General Manager will be: \_\_\_\_\_

A Management Company under a Management Agreement with the Applicant  
The Management Company will be:

Name of Company and Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

**If a separate Management Company will manage the Hotel, please attach to this Application the proposed Management Company's relevant formation documents (for example, Articles or Certificate of Incorporation, Articles of Organization, Certificate of Formation, or Certificate of Limited Partnership or Partnership Agreement). Please also attach the proposed Management Company's Certificate of Good Standing.**

Approval of this Application does not mean that your proposed management is approved. You must obtain our separate written approval of the proposed management of the Hotel.

6. **LIST ALL HOTELS OWNED AND/OR OPERATED BY APPLICANT AND ITS OWNERS**

Brand/Property Name, City/State	Owner/Operator Name	Applicant's % Ownership Interest

7. **OWNERSHIP STRUCTURE OF APPLICANT ENTITY**

In the following table, please list all owners (both entities and individuals) who have an ownership interest in the Applicant entity. If any owners in the Applicant entity are entities themselves, please also include in this list each entity owner's underlying ownership structure.

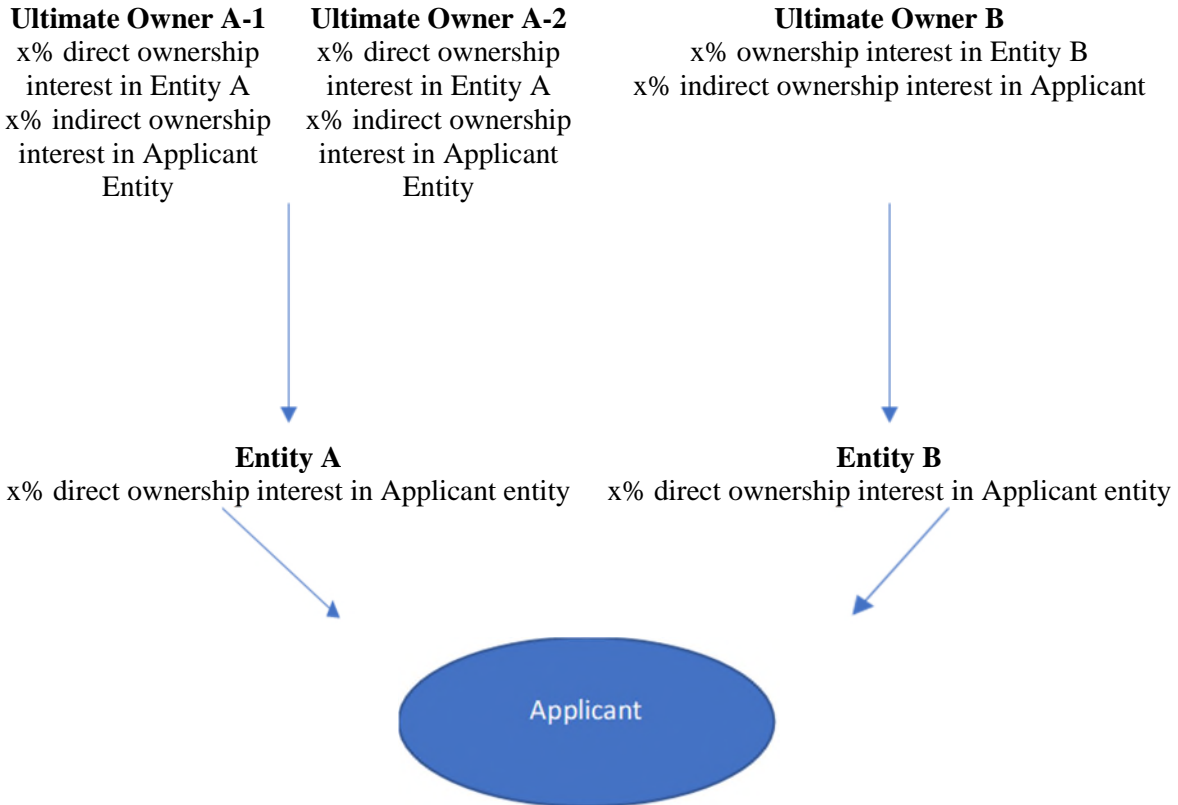
**OWNERSHIP STRUCTURE OF APPLICANT ENTITY**

Owner (Name of Entity or Person)	Business Address & Telephone	EIN (or, if Owner is an individual, then last 4 digits of SSN)	% Ownership Interest in Applicant Entity

## ORGANIZATIONAL CHART

Please attach a full organizational chart for the Applicant entity. If the proposed site will be owned, leased or subleased by an affiliate of the Applicant, please include an organizational chart for that entity as well. Please include in the chart all direct and indirect equity owners up to the ultimate individual owners (but excluding public shareholders or passive investors in an institutional investment fund). For each equity owner, please state whether the interest held is a direct or indirect interest and please show the percentage of ownership of each equity owner.

### Example:



**8. PROPOSED SITE AND LEASE INFORMATION**

**Proposed Site for Hotel (include address here):**

---



---

**Development Type:**

- New Development       Conversion       Change of Ownership       Renewal

**Hotel Affiliation (for New Development/Conversion applications only):**

Has there ever been a franchise, branded management, affiliation, or similar agreement pertaining to the proposed hotel or site?

- No       Yes/Describe: \_\_\_\_\_

Is the hotel currently under contract with another hotel chain?

- No       Yes/Specify hotel chain: \_\_\_\_\_

**Hotel Facilities (existing and/or proposed):**

Total Guest Rooms:		# of Standard Rooms:		# of Suites:		# of Stories:	
Year Built (open hotel)		Meeting Space		No	Yes:	sq.ft	# of Mtg Rms:
Ballroom		No		Yes/Description/Square footage:			
Condominium Residences:		No		Yes			
Fitness Center		No		Yes/Description:			
Spa		No		Yes/Description:			
Swimming Pool				Hot Tub Jacuzzi			
Food & Beverage Facilities (outlets, capacity, meals served, operated/leased, current/planned brand names):							
Other Retail Outlets (type, operated/ leased, current/planned brand names):							
Other Amenities (specify):							
Shared Facilities		No		Yes /Description:			
Condo Residences		No		Yes/Description:			
Hotel Rental Program		No		Yes/Description:			

**Hotel Site /Building Information:**

Total sq footage of site: \_\_\_\_\_ Zoned for hotel development?  No       Yes

Max height allowed by zoning: \_\_\_\_\_ Stories \_\_\_\_\_

Site/Development Restrictions?  No       Yes/Describe: \_\_\_\_\_

**Hotel Site Ownership:**

- Owned by Applicant (attach copy of recorded deed)
- Ground lease (attach copy of recorded ground lease)                      Expiration Date: \_\_\_\_\_
- Binding option agreement (attach copy of recorded agreement)              Exercise Deadline: \_\_\_\_\_
- Binding purchase agreement (attach copy of executed agreement)          Closing Deadline: \_\_\_\_\_
- Other/Describe: \_\_\_\_\_

**If Hotel or Hotel Site is currently owned by someone other than Applicant, please indicate:**

Hotel/Hotel Site owner name// Address/Telephone//Email//Related to Applicant (if apply)

---



---

**If Hotel or Hotel Site will, upon close of purchase, be owned by someone other than Applicant, please indicate:**

Fee owner/Lessor name// Address/Telephone//Email//Related to Applicant (if apply) and provide ownership structure of fee owner.

---



---

**9. FINANCIAL INFORMATION/PROJECT TIMELINE**

**Estimated Project Costs – New Development Project:**

Costs	Overall	Per Key
Land:	US\$	US\$
Construction:	US\$	US\$
FF&E:	US\$	US\$
Other:	US\$	US\$
Total Project Costs:	US\$	US\$

**Estimated Project Costs – Conversion or Change of Ownership (existing hotel):**

Costs	Aggregate	Per Key
Purchase Price/Current Market Value:	US\$	US\$
Renovations/Upgrades:	US\$	US\$
Other:	US\$	US\$
Total Project Costs:	US\$	US\$

**Estimated Project Timeline:**

Estimated Construction/Renovation Start Date:	
Estimated Construction/Renovation Completion Date:	

**Operating Projections:**

	Year 1	Year 2	Year 3	Year 4	Year 5
% Occupancy					
Avg Daily Rate (US\$)					

**Financing/Refinancing Information**

Do you have a loan or loan commitment for this project?     No     Yes (continue)

Name of Lender(s): \_\_\_\_\_

Loan Amount: \_\_\_\_\_ Percentage Equity: \_\_\_\_\_

Description: \_\_\_\_\_

New?     Existing?

Is the loan (or will the loan be) cross-collateralized by other hotels/real estate assets or cross-defaulted to any other loan(s)?

No     Yes/Describe: \_\_\_\_\_

**Deadlines associated with Project or Application:**

Are there any critical deadlines we should know about in processing your Application, such as purchase closings or financing commitment deadlines?

No     Yes/Describe: \_\_\_\_\_

**EXHIBIT B-2**  
**FRANCHISE AGREEMENT**

**[BRAND] HOTELS  
FRANCHISE AGREEMENT**

**between**

---

**and**

**NH HOTELS USA FRANCHISE INC.**

**FOR**

**[BRAND]**

**DATED: \_\_\_\_\_, 20\_\_**

**[BRAND] HOTELS  
FRANCHISE AGREEMENT  
TABLE OF CONTENTS**

	<b><u>Pag</u></b>
1. DEFINED TERMS.....	1
2. GRANT OF FRANCHISE RIGHTS AND AREA OF PROTECTION.....	7
3. TERM AND RENEWAL .....	8
4. DEVELOPMENT AND OPENING OF THE HOTEL.....	9
5. TRAINING, GUIDANCE AND ASSISTANCE. ....	12
6. OPERATION OF THE HOTEL; MAINTENANCE, MANAGEMENT AND MARKETING. ....	13
7. FEES AND COSTS.....	18
8. PROPRIETARY MARKS, CONFIDENTIAL INFORMATION AND MANUALS.....	19
9. REPORTS, BOOKS AND RECORDS. ....	21
10. RESERVATION SYSTEM.....	22
11. INSURANCE, CONDEMNATION AND DAMAGE.....	23
12. TRANSFER.....	24
13. TERMINATION RIGHTS. ....	25
14. SUSPENSION.....	26
15. OBLIGATIONS UPON TERMINATION OR EXPIRATION OF THIS AGREEMENT.....	27
16. TAXES AND INDEBTEDNESS.....	28
17. INDEPENDENT CONTRACTOR AND INDEMNIFICATION.....	28
18. APPROVALS AND WAIVERS.....	29
19. NOTICES.....	30
20. ENTIRE AGREEMENT.....	30
21. SEVERABILITY AND CONSTRUCTION.....	31
22. DISPUTE RESOLUTION.....	31
23. FRANCHISEE’S REPRESENTATIONS AND ACKNOWLEDGMENTS.....	34

**EXHIBITS**

- EXHIBIT A – BASIC TERMS
- EXHIBIT B – CONVERSION ADDENDUM
- EXHIBIT C – TECHNICAL SERVICES
- EXHIBIT D – INSURANCE REQUIREMENTS
- EXHIBIT E – FRANCHISEE’S OWNERSHIP
- EXHIBIT F – GUARANTY

**[BRAND] HOTELS  
FRANCHISE AGREEMENT**

THIS FRANCHISE AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (“**Effective Date**”), by and between **NH HOTELS USA FRANCHISE INC.**, a corporation organized under the laws of Delaware with its principal business address at Santa Engracia, 120, 7th Floor, 28003, Madrid, Spain (“**Franchisor**”) and \_\_\_\_\_, a \_\_\_\_\_ organized under the laws of \_\_\_\_\_ with its principal business address at \_\_\_\_\_ (“**Franchisee**”) for the Brand Hotel identified in this Agreement. Franchisor and Franchisee are sometimes collectively referred to hereunder as the “**Parties**,” or individually as a “**Party**.”

NOW, THEREFORE, Franchisee and Franchisor agree as follows:

**INTRODUCTION:**

Franchisor is part of a group of companies (the "**NH Group**") that has developed hotel services worldwide, under certain systems and formats (including leasing, management arrangements and franchises) using the trademarks registered in the name of the NH Group or licensed to NH Group. As part of the NH Group, Franchisor has the right to grant franchises for the establishment and operation of Brand Hotels and Resorts in the United States. “**Brand Hotels**” are full service, 3-, 4- and 5-star urban hotels and resorts for business or leisure purposes, which operate under the System and the Proprietary Marks. Franchisee owns or has the right to occupy the Approved Site identified in Exhibit A to this Agreement. Franchisee wishes to obtain a franchise to operate a Brand Hotel at the Approved Site. As used in this Agreement, the term “**Hotel**” means the Brand Hotel located at the Approved Site that Franchisee will operate pursuant to this Agreement, and includes all structures, facilities, appurtenances, FF&E, entrances, exits, and parking areas located on the Approved Site or any other real property that Franchisor approves for Hotel expansion, signage, or other facilities. In reliance on the business skill, financial capacity and character of Franchisee and its Owners and the guaranty of Franchisee’s obligations under this Agreement by the Guarantor, Franchisor wishes to grant to Franchisee the right to develop and operate the Hotel at the Approved Site under the Proprietary Marks upon the terms and conditions set forth in this Agreement.

**1. DEFINED TERMS.**

In this Agreement, and in addition to the terms otherwise defined herein, the following terms have the meanings set forth below:

“**AAA**” has the meaning given to it in Section 22.3.1.

“**Accessibility Laws**” means the Americans with Disabilities Act and other laws, rules, regulations and ordinances governing accommodations for or relationships with persons with disabilities or similar individuals, as in effect from time to time.

“**Affiliate**” means, with respect to any person or entity, any other person or entity directly or indirectly controlling, controlled by, or under common control with the named person or entity.

“**Agreement**” means this franchise agreement, as it may be amended or supplemented from time to time in accordance with its terms.

“**Anti-Corruption Laws**” means any laws, rules or regulations relating to anti-corruption, anti-bribery, anti-money laundering, or similar prohibited conduct or otherwise relating to the maintenance of accurate books and records and internal controls.

“**AOP Term**” has the meaning given to it in Exhibit A.

“**Applicable Law**” means and includes applicable common law and all applicable statutes, laws, rules, regulations, ordinances, policies and procedures established by any Governmental Authority, those governing the development, construction and/or operation of the Hotel, and all Accessibility Laws, Trade Restriction Laws, Anti-Corruption Laws, laws relating to Personal Data, and Privacy Laws.

“**Application Fee**” means the amount paid by Franchisee before signing this Agreement and as designated in Exhibit A (Basic Terms), which amount is the greater of (a) \$60,000, or (b) \$500 per guest room.

“**Approved Site**” means the address of the Hotel, as identified in Exhibit A to this Agreement.

“**Area of Protection**” has the meaning given to it in Exhibit A.

“**Average Monthly Continuing Franchise Fees**” means:

(i) if, as of the effective date of termination, at least thirty-six (36) months have elapsed since the Opening Date, the average monthly Continuing Franchise Fee paid by Franchisee to Franchisor during the twelve (12) full calendar months preceding the month of termination; or

(ii) if, as of the effective date of termination, the Opening Date has occurred but less than thirty-six (36) months have elapsed since the Opening Date, the average monthly Continuing Franchise Fee paid by Franchisee to Franchisor during the period from the Opening Date until the effective date of termination.

Notwithstanding the foregoing, if “**Average Monthly Continuing Franchise Fees**” as determined pursuant to any part of (i) or (ii) above has been materially and negatively impacted during the preceding twelve (12) full calendar month period by a disruption in the Hotel’s operations resulting from an event of Force Majeure, casualty, suspension of operations (whether or not consented to by Franchisor), renovation of the Hotel, or any other similar circumstances, “**Average Monthly Continuing Franchise Fees**” shall be determined by reference to the most recent twelve (12) full calendar month period preceding termination, during which the Hotel performance was not so impacted.

“**Brand**” means the \_\_\_\_\_ hotel brand, trade name, trademark, system, collection or chain of hotels.

“**Brand Damages**” means lost Continuing Franchise Fees, lost market penetration and goodwill, loss of Hotel System representation in the Hotel’s market area, lost opportunity costs, and expenses that Franchisor will incur in developing or finding another franchisee to develop another Hotel in the Hotel’s market area.

“**Brand Hotels**” means the hotels that operate under the Brand.

“**Brand Services**” means the services (other than then pre-opening Technical Services) which are generally provided to Brand Hotels, which may be varied by Franchisor from time to time.

“**Brand Services Costs**” mean any fees, costs, charges or other amounts for the provision of the Brand Services, which may be varied by Franchisor from time to time.

“**Brand Standards**” means the standards and specifications adopted from time to time by Franchisor or its Affiliates and included in the Manuals for Brand Hotels, including all of the standards,

specifications, drawings and designs related to brand naming and identity guidelines, advertising, public relations and communications, construction and installations and technical systems, fitting-out, equipping (including FF&E and OS&E), and operation of a Brand Hotel, initial and ongoing training requirements, the use of NH Group's GEM reservation system, any other reservation system required or recommended by Franchisor (or any replacement system) for stays and events at the Hotel, staff uniforms, the IT Standards, as well as any equipment and technical specifications issued from time to time by Franchisor or its Affiliates.

“**Civil Liability Insurance**” has the meaning given to it in Exhibit D.

“**Competitor**” means a person or entity that: (i) owns and controls one or more hotel brands; (ii) is primarily engaged, directly or indirectly, in the management, licensing, franchising or operation (as opposed to the mere ownership) of hotels located in the United States, which brand(s) Franchisor determines in its sole judgment is/are competitive with the Brand Hotels brand.

“**Computer System**” means all hardware, Software and peripheral equipment that Franchisor, its Affiliates or designated or approved suppliers license or sell to Franchisee, required to operate the Hotel in accordance with the System, including the Reservation System and PMS.

“**Concept Design Proposal**” has the meaning given to it in Section 4.3.

“**Confidential Information**” means all Intellectual Property Rights, proprietary Software, the contents of the Manuals, and any and all other Know-How, materials, information, data (including Guest Personal Data), procedures, or techniques which Franchisor or its Affiliates provides in connection with the development, construction and operation of the Hotel as a Brand Hotel, including site selection, operational, sales, promotional, and marketing methods and techniques. Confidential Information does not include information which Franchisee can demonstrate came to Franchisee's attention by proper means before disclosure by Franchisor or its Affiliates, or which, at or after the time of such disclosure, had become or later becomes a part of the public domain, through proper publication or communication by others and which does not violate this Agreement or any agreement Franchisor or its Affiliates may have with a third party.

“**Continuing Franchise Fee**” means the on-going fee described in Section 7.2 of this Agreement.

“**Damage Threshold**” means the greater of (a) fifty percent (50%) of the market value of the Hotel immediately prior to the time of fire, flood, accident, hurricane or other casualty, or (b) the amount of insurance proceeds made available to Franchisee in connection with the casualty.

“**Dispute Notice**” has the meaning given to it in Section 22.2.

“**Effective Date**” means the date entered in the preamble to this Agreement.

“**Expiration Date**” means the date which is fifteen (15) years after the Opening Date.

“**Event of Default**” has the meaning given to it in Section 13.2.

“**FF&E**” has the meaning given to it in Section 4.5.

“**Franchisee**” has the meaning given to it in preamble to this Agreement.

“**Franchisee Transfer**” means, in one or a series of transactions, any voluntary or involuntary (a) sale, assignment, conveyance or other transfer of all of the Hotel or any interest therein or of Franchisee's rights hereunder (including any lease); (b) sale, assignment, conveyance, or other transfer of

any ownership interest in Franchisee; or (c) transfer of this Agreement (or any interest of Franchisee under this Agreement);

“**Franchisor**” has the meaning given to it in preamble to this Agreement.

“**Governmental Authority**” means and includes all federal, state, county, municipal and local governmental and quasi-governmental agencies, commissions and authorities.

“**Gross Rooms and Banquet Sales**” means “Total Rooms” plus Banquet Sales,” or the equivalent thereof, as those terms are defined in the Uniform System of Accounts.

“**Guarantor**” means the person or entity who guarantees the performance of Franchisee’s obligations under this Agreement.

“**Guaranty**” means a guaranty executed by a Guarantor for the benefit of Franchisor in the form required by Franchisor, a copy of which is attached as Exhibit F to this Agreement.

“**Guest Personal Data**” means information and data relating to or derived from the Hotel’s guests and other customers during the Term of this Agreement, whether obtained from the guest or customer or from any other source, including names, preferences, and other information about the guests’ or customers’ experiences and/or purchases, and including information stored in or provided to the Reservation System or the Hotel’s PMS.

“**Hotel**” has the meaning given to it in the “Introduction” paragraph of this Agreement.

“**Indemnitees**” has the meaning given to it in Section 17.2.

“**Innovations**” has the meaning given to it in Section 8.8.

“**Insolvency Event**” means Franchisee or any Guarantor admits its inability to pay its debts as they become due or makes a general assignment for the benefit of creditors; suffers an action to dissolve or liquidate; commences or consents to any case, proceeding, or action seeking reorganization, arrangement, adjustment, liquidation, dissolution, or composition of debts under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors; suffers an appointment of a receiver, trustee, custodian, or other official for any portion of its property or the Hotel; takes any corporate or other action to authorize any of the actions set forth above in this definition; has any case, proceeding, or other action commenced against it as debtor seeking an order for relief, 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 any portion of its property or the Hotel, and such case, proceeding, or other action results in an order for relief against it that is not fully stayed within seven (7) business days after being entered or remains un dismissed for forty five (45) days; has an attachment of Fifty Thousand Dollars (\$50,000) or more on all or any part of the Hotel or any of its assets that remains for at least ninety (90) days; or fails, within sixty (60) days after the entry of a final judgment against it in any amount exceeding One Hundred Thousand Dollars (\$100,000), to discharge, vacate, or reverse the judgment, to stay its execution, or, if appealed, to discharge the judgment within thirty (30) days after a final adverse decision in the appeal.

“**Intellectual Property Rights**” means all intellectual property rights (whether registered or unregistered and existing anywhere in any jurisdiction) such as trademarks (including but not limited to the Proprietary Marks), trade names, designs, patents, copyrights, domain names, protection conferred to Software and database rights (including rights in the databases owned by Franchisor or its Affiliates), forming part of and used in connection with the operation of the Brand Hotels.

**“IT Standards”** means all IT equipment and Software requirements specified by Franchisor or its Affiliates from time to time in the Manuals or otherwise in writing in connection with the operation of the Hotel under the System.

**“Long-Term Renovations”** are upgrades, refurbishments and renovations which constitute capital improvements, including interior/exterior structural changes.

**“Losses”** has the meaning given to it in Section 17.2.

**“Management Company”** means a third-party management company (including any successor or replacement management company) engaged by Franchisee to manage the day-to-day operations of the Hotel that satisfies the Management Company Qualifications and that has been approved by Franchisor.

**“Management Company Qualifications”** means that the Management Company (a) is financially capable, sufficiently experienced, and managerially and operationally qualified, in Franchisor’s sole judgment, to manage the Hotel in accordance with this Agreement, and (b) is not a Competitor, Specially Designated National or Blocked Person, or an Affiliate of a Competitor or Specially Designated National or Blocked Person.

**“Manuals”** means Franchisor’s or the NH Group’s confidential product standards manual, corporate brand identity manuals, advertising manuals, public relations and communications manuals, service manual, and NH brand-specific guides (such as the NH guide relating to quality checks and the benchmarks used by Franchisor to measure compliance with Brand Standards, technical installations specifications, architectural guidelines, sustainability guidelines, renders guidelines, signage) as those may be modified from time to time, that list and describe the standards with which Franchisee must comply in developing and operating the Hotel. The Manuals may include periodic supplements, as well as guides, resources, training materials and websites, specifications, policies, and procedures for the design, development, construction, and operation of franchised hotels operating under the System, whether in hard copy or electronic form.

**“Material Damage Insurance”** has the meaning given to it in Exhibit D.

**“NH Experience Operating System”** means the NH Group’s operation system for hotel, accommodation and catering businesses consisting of know-how, experiences and methodologies of the development, management and operation of hotels. The NH Experience Operating System includes technical requirements, formats, manuals, techniques, methods, formulas, procedures and commercial and industrial experiences that the NH Group, as a result of its research and innovation, has created and accumulated over time (and currently continues to create and accumulate). Among other intangible assets, the NH Experience Operating System also includes specific hotel design and decoration techniques, sales and organization techniques, a standard level of product quality and uniformity procedures. The NH Experience Operating System uses uniform imagery that is sufficiently identifiable in the market, and which is characterized by, among other things, specific design, decoration (exterior and interior), advertising campaigns, training programs, sales techniques and an exclusive color scheme inherent to the NH Experience and recognizable in hotels. Franchisor and the NH Group may, modify any aspect of the NH Experience Operating System as it deems appropriate.

**“NH Affiliated Hotel Group”** means the hotel and lodging facility, systems, chains or brands owned, leased, under development, or operated, licensed or franchised by the NH Group, Franchisor or any of its Affiliates, now or in the future, anywhere in the world, including Brand Hotels, NH COLLECTION, NHOW, TIVOLI, ANANTARA, AVANI, OAKS and ELEWANA.

**“NH Group”** has the meaning given to it in the “Introduction” paragraph of this Agreement.

“**NH Loyalty Program**” means the GHA Discovery program, any other loyalty program, or any replacement program designated by Franchisor from time to time, through which members can purchase hotels rooms at discounted rate levels that Franchisor designates from time to time, as well as other benefits.

“**Opening Date**” means the date on which the Hotel opens for business under the Brand. The projected Opening Date for the Hotel as a Brand Hotel is \_\_\_\_\_, 20\_\_, as it may be extended by Franchisor in Franchisor’s sole judgment.

“**OS&E**” means collectively, "Operating Supplies" and "Operating Equipment" as defined in the Uniform System of Accounts.

“**Owners**” means any person or entity that has any direct or indirect Ownership Interest in Franchisee, as set out in Exhibit E to this Agreement.

“**Ownership Interest**” means all forms of ownership of legal entities or property, both legal and beneficial, voting and non-voting, including stock interests, partnership interests, limited liability company interests, joint tenancy interests, leasehold interests, proprietorship interests, trust beneficiary interests, proxy interests, power-of-attorney interests, and all options, warrants, and any other forms of interest evidencing ownership.

“**PIP**” or “**Property Improvement Plan**” means the document listing all the adjustments that Franchisee must implement within a defined timeframe in order to be able to use or continue to use and operate the Hotel as a Brand Hotel.

“**PMS**” means the property management system.

“**Pre-Opening Period**” means the period from the Effective Date of this Agreement to the Opening Date, during which Franchisee shall complete all pre-opening obligations set forth in Section 4.

“**Privacy Laws**” means any international, national, state, local or other law, code, rule or regulation that regulates the collection, processing, recording, organization of, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of Personal Data or other personally-identifiable information in any way, including data protection laws, laws regulating marketing or electronic communications, and information security regulations.

“**Proprietary Marks**” means all trade names, trademarks, service marks, logos, emblems, symbols and indicia of origin that are now designated and may hereafter be designated in writing by Franchisor for use in connection with Brand Hotels, including the Brand and any derivative marks. The Proprietary Marks may be modified by Franchisor from time to time, in its sole judgment.

“**Renewal Franchise Right**” has the meaning given to it in Section 3.2.

“**Reservations Fee**” has the meaning given to it in Section 7.4.

“**Reservation System**” means the proprietary reservation system or any replacement system (including all equipment and Software used in the operation of the Reservation System), designated by Franchisor for use by Franchisee in the operation of the Hotel, as such Reservation System may be modified by Franchisor from time to time.

“**Room Mock-up**” has the meaning given to it in Section 4.3.

“**Short-Term Renovations**” means upgrades, refurbishments and renovations which include such items as damaged or deteriorated carpet, drapes, bedspreads, and paint.

“**Software**” means software provided or specified by Franchisor or its Affiliates for use in the System, including but not limited to, any proprietary and third-party software.

“**Specially Designated National or Blocked Person**” means: (i) a person or entity designated by the U.S. Department of Treasury’s Office of Foreign Assets Control from time to time as a “specially designated national or blocked person” or similar status; (ii) a person or entity described in Section 1 of U.S. Executive Order 13224, issued on September 23, 2001; or (iii) a person or entity otherwise identified by any Governmental Authority as a person or entity with whom Franchisor, or any of its Affiliates, are prohibited from transacting business.

“**System**” means the procedures, policies, Brand Standards, specifications, controls and other distinguishing elements which Franchisor or its Affiliates have developed or acquired in connection with the establishment and operation of Brand Hotels and which Franchisor or its Affiliates implements and may periodically modify, including the NH Experience Operating System and NH Loyalty Program. The distinguishing characteristics of the System include Brand Standards for the establishment and operation of a Brand Hotel; prototypical architectural plans, designs, layouts and distinctive color schemes for Brand Hotels; the Software; the Reservation System; marketing programs; the NH Loyalty Program, initial and ongoing training programs; operational Brand Standards, policies, procedures and techniques as described in the Manuals, all of which may be changed, improved or further developed from time to time.

“**Taxes**” means all taxes of any kind or all rents or charges, fees for licenses or permits, inspection fees and all other fees required for authorizations and expenses, applying to the Hotel or its operation, including unemployment taxes, sales taxes, use taxes, withholding taxes, value added taxes, excise taxes, personal property taxes, intangible property taxes, gross receipt taxes, taxes on royalties, any similar taxes or levies, which may at any time be implemented, levied or decided.

“**Term**” has the meaning given to it in [Section 3.1](#).

“**Technical Services**” has the meaning given to it in [Section 4.2](#).

“**Trade Restriction Laws**” mean Executive Order 13224 issued by the President of the United States, the USA PATRIOT Act, the list of prohibited countries, individuals, organizations and entities maintained by the U.S. Department of Treasury Office of Foreign Assets Control, and all other present and future federal, state, and local laws, ordinances, regulations, policies, lists, and other requirements of any Governmental Authority addressing or in any way relating to terrorist acts, acts of war, trade, economic or investment sanctions or prohibitions, or similar restrictions.

“**Uniform System of Accounts**” means the latest edition of the Uniform System of Accounts for the Lodging Industry that is published by the Hotel Association of New York City, Inc. and approved by the American Hotel & Lodging Association (currently, the 11th Revised Edition, 2014), or a later edition that Franchisor approves.

## **2. GRANT OF FRANCHISE RIGHTS AND AREA OF PROTECTION.**

2.1. Grant of Franchise Rights. Franchisor grants Franchisee the non-exclusive right, and Franchisee undertakes the obligation, to use the System during the Term to build or convert and operate the Hotel as a Brand Hotel under the Proprietary Marks and the System at the Approved Site in accordance with this Agreement’s terms. Franchisee shall not operate the Hotel from or at any other address or location.

2.2. Franchisor's Reserved Rights. Franchisee's rights and obligations under this Agreement are limited to the Hotel and nothing in this Agreement confers any rights of any kind to any other location, area, market or territory. Subject to Section 2.3 below, Franchisor and its Affiliates have the right without restriction to engage in any and all activities Franchisor and they desire (including with respect to any and all types of lodging facilities or residences), including but not limited to, opening and operating and authorizing any other parties to open and operate, other Brand Hotels or other NH Affiliated Hotel Group hotels at any other location, at any time and place and whether or not those activities compete with the Hotel. Franchisee's rights under this Agreement are nonexclusive in all respects, the Hotel has no territorial protection whatsoever (subject to Section 2.3 below), and Franchisor and its Affiliates have the right without restriction to engage in any and all activities Franchisor and they desire (including with respect to any and all types of lodging facilities), at any time and place, whether or not using the Proprietary Marks or any aspect of the System, and whether or not those activities compete with the Hotel (subject to Section 2.3 below).

2.3. Area of Protection.

2.3.1. Notwithstanding Section 2.2 above, during the AOP Term, neither Franchisor nor its Affiliates will open and operate, nor authorize any other party to open and operate, another Brand Hotel the physical premises of which is located within the Area of Protection. The one exception to this restriction is that, during the AOP Term, if Franchisor or any Affiliate acquires ownership of or the right to operate or manage (regardless of the form of transaction) another group of at least five (5) hotels, one (1) or more of which hotels are located or are under contract or construction to be located in the Area of Protection, then Franchisor and/or its Affiliates will have the unrestricted right to convert, or cause to be converted, the acquired hotel(s) within the Area of Protection from its (or their) original trade identity to operate under the Proprietary Marks and the System, and thereafter to operate or authorize any other party to operate such hotel(s) as Brand Hotels, even if one (1) or more of the other acquired hotels, whether operating within or outside the Area of Protection, are not converted to Brand Hotels. For clarity, the restrictions in this Section 2.3 apply only to a hotel operated as a NH Hotel and do not apply to any hotel, residence, extended stay, condo-hotel or other accommodation operated, managed or licensed by Franchisor or its Affiliates (including without limitation any NH Affiliated Hotel Group hotels other than Brand Hotels) or utilizing any other brand including any of the brands in the NH Hotel Group (other than Brand Hotels).

2.3.2. Except for the limited exclusivity provided in Section 2.3.1 above, Franchisee's rights under this Agreement are nonexclusive in all respects, the Hotel has no territorial protection whatsoever, and Franchisor and its Affiliates have the right without restriction to engage in any and all activities Franchisor and they desire (including with respect to any and all types of lodging facilities), at any time and place, whether or not using the Proprietary Marks or any aspect of the System, and whether or not those activities compete with the Hotel.

2.3.3. Franchisee's rights in the Area of Protection apply only so long as this Agreement remains in full force and effect and only during the AOP Term. Following the AOP Term, Franchisee will have no territorial rights or protection whatsoever, whether within or outside the Area of Protection, and Franchisor and its Affiliates may open and operate, and authorize any other parties to open and operate, other Brand Hotels the physical premises of which are located within the Area of Protection, including pursuant to franchise and other agreements signed during the AOP Term.

**3. TERM AND RENEWAL**

3.1. Term. The term of this Agreement shall commence on the Effective Date and shall expire

on the Expiration Date, unless sooner terminated in accordance with the provisions hereof (“**Term**”).

3.2. Renewal. When this Agreement expires, if Franchisee (and, as applicable, each Guarantor): (a) has substantially complied with this Agreement during its Term and is in full compliance with this Agreement (including all Brand Standards) as of the Expiration Date; (b) meets Franchisor’s then applicable standards for franchisees; (c) has the right to maintain possession of the Hotel for at least ten (10) years following the Expiration Date, then Franchisor will offer Franchisee the right to enter into a renewal franchise agreement to continue operating the Hotel as a Brand Hotel for a term commencing immediately upon the Expiration Date and expiring ten (10) years from that date (the “**Renewal Franchise Right**”) in accordance with Sections 3.3 and 3.4 below. If Franchisee (or any Guarantor) does not meet the requirements of this Section 3.2, then Franchisor need not enter into a renewal franchise agreement with Franchisee, whether or not Franchisor notified Franchisee of the non-compliance or had, or chose to exercise, the right to terminate this Agreement during its Term.

3.3. Process. Franchisee agrees to give Franchisor written notice of Franchisee’s election to exercise or not to exercise the Renewal Franchise Right no more than twelve (12) months, and no less than six (6) months, before the Expiration Date. Simultaneously with submitting its notice to exercise the Renewal Franchise Right, Franchisee shall pay Franchisor its then current application fee, which is nonrefundable. Franchisee’s failure to deliver such notice within such timeframe or to pay such fee shall be deemed Franchisee’s decision not to exercise the Renewal Franchise Right. Within ninety (90) days after Franchisor receives Franchisee’s notice and full payment of the applicable fee, Franchisor agrees to notify Franchisee of Franchisor’s decision either to:

(a) deny Franchisee’s election to exercise the Renewal Franchise Right based on the failure to satisfy the conditions in Section 3.2; or

(b) approve Franchisee’s election to exercise the Renewal Franchise Right, subject to (i) Franchisee’s renovating, remodeling and/or expanding the Hotel (which may include structural alterations), adding or replacing improvements and FF&E, and otherwise modifying the Hotel as Franchisor requires to comply with the System and Brand Standards then applicable for new similarly situated Brand Hotels, which must be completed to Franchisor’s reasonable satisfaction before the Term expires; and (ii) Franchisee’s (and each Guarantor’s) continued compliance with the other provisions of this Agreement during the remaining Term.

3.4. Renewal Franchise Agreement. If Franchisee satisfies all of the other conditions for a renewal franchise agreement under this Section 3 and Franchisee pays to Franchisor the then applicable application fee, then Franchisee will sign the form of franchise agreement and any ancillary agreements Franchisor then customarily uses in granting franchises for Brand Hotels (modified as necessary to reflect the fact that it is for a renewal franchise and that there will be no further renewal or successor franchise rights), which may contain provisions that differ materially from any and all of those contained in this Agreement. Franchisee and the Guarantors further agree to sign general releases, in a form satisfactory to Franchisor, of any and all claims against Franchisor and its Affiliates and its and their respective owners, officers, directors, managers, employees, agents, representatives, successors, and assigns.

#### **4. DEVELOPMENT AND OPENING OF THE HOTEL.**

4.1. In General; Development In Accordance with System and Brand Standards. Franchisee shall construct, convert, equip and furnish the Hotel in accordance with the provisions of this Agreement, all Applicable Laws, the PIP (which is subject to Franchisor’s review) and Franchisor’s System and Brand Standards. If Franchisee will convert the Hotel to a Brand Hotel, then Franchisee must sign the Conversion Addendum attached to this Agreement as Exhibit B, which includes conversion-specific terms (if any). Franchisor may, but is not obligated to, provide Franchisee a prototypical set of standard plans and

specifications for Brand Hotels. If provided, such prototypical plans will not contain the requirements of any federal, state or local law, code or regulation, including the Americans With Disabilities Act or similar rules governing accommodations for persons with disabilities, nor will such plans contain the requirements of, or be used for, construction drawings or other documentation necessary to obtain permits or authorizations to build a specific Brand Hotel. Franchisee shall not reproduce, use, or permit the use of, any of Franchisor's design concepts, drawings, or specifications, without Franchisor's prior written consent.

4.2. Franchisor's Assistance; Technical Services. In addition to Franchisor's obligations under Sections 4.3, 4.4, 4.5 and 4.6, Franchisor will provide certain technical and pre-opening services during the Pre-Opening Period, including with regard to (i) the design and construction of the Hotel; (ii) the design of the FF&E and OS&E for the Hotel; and (iii) activities which must be undertaken so that the Hotel can function in an appropriate and orderly manner as a Brand Hotel (the "**Technical Services**"). The Technical Services as of the Effective Date are listed in Exhibit C and can be updated and revised by Franchisor in Franchisor's discretion from time to time. Franchisor will use commercially reasonable efforts to provide the Technical Services in connection with the Pre-Opening Period and as part of the Hotel opening. Franchisor will perform the Technical Services using its employees, its Affiliates or third-party contractors, as Franchisor determines. Franchisor's provision of the Technical Services and the exercise of Franchisor's right to approve the site layout, to approve any plans (including the Concept Design Proposal and Room Mock-Up), to inspect the construction or conversion of the Hotel and to authorize the opening of the Hotel as a Brand Hotel shall be solely for the purpose of assuring compliance with the Brand Standards and shall not be construed as any express or implied representation or warranty that the Hotel complies with any Applicable Laws, codes or regulations (including the Americans With Disabilities Act or any other federal, state, or local law or ordinance regulating standards for the access to, use of, or modification of buildings for and by persons whose disabilities are protected by law) or that the construction is sound or free from defects. Franchisor shall have no liability or obligation with respect to the construction or conversion of the Hotel.

4.3. Franchisee's Concept Design Proposal and Room Mock-Up. Within ninety (90) days after the Effective Date, Franchisee must compose at Franchisee's sole cost and expense, and submit to Franchisor, a proposed concept design (the "**Concept Design Proposal**") for the Hotel. The Concept Design Proposal must include: (a) a site plan and preliminary architectural drawings for the Hotel; (b) proposed renderings and specifications for the construction, renovation or conversion of the Hotel; (c) proposed architectural, mechanical, electrical, PCI and other technical installations; (d) structural, civil engineering, and landscaping drawings; (e) proposed signage; (f) mood board; (g) all documentation that is required to obtain any necessary governmental approvals; and (h) any other information required by Franchisor. Together with the Concept Design Proposal, Franchisee shall prepare at its sole cost and expense, and submit to Franchisor, a mock-up of the Hotel's contemplated hotel rooms, which must include the information required by Franchisor relating to renderings, materials, finishes, FF&E and any other specifications designated by Franchisor (a "**Room Mock-up**"). Franchisor's review and approval of the Concept Design Proposal and the Room Mock-Up will be limited to assessing compliance with the Brand Standards. If Franchisor does not approve the Concept Design Proposal and/or the Room Mock-Up within four (4) weeks after Franchisor receives them from Franchisee, such Concept Design Proposal and/or Room Mock-Up will be deemed disapproved; provided, however, that Franchisor shall provide comments to Franchisee that Franchisee shall incorporate into the Concept Design Proposal and/or Room Mock-Up, as applicable. Within four (4) weeks after Franchisor sends Franchisee its comments, Franchisee shall resubmit the revised Concept Design Proposal and/or the revised Room Mock-Up to Franchisor for review and approval. Following Franchisor's approval of both the Concept Design Proposal and Room Mock-Up (including any changes made in response to Franchisor's comments), Franchisee must obtain, at its sole cost and expense, all licenses and permits that are required for completion of the Hotel in accordance with the approved Concept Design Proposal and Room Mock-Up, including any required building, occupancy, sewer and utility permits. Franchisor is not responsible for, and shall have no liability for, the architecture,

design, engineering or construction of the Hotel, for the Hotel's compliance with any federal, state or local law (including the Americans With Disabilities Act and any other federal, state or local law or ordinance regulating standards for access to, use of the, or modification of buildings for and by persons who are protected by law by virtue of such disability or whose disabilities are otherwise recognized by law), for any errors, omissions or discrepancies of any nature in any drawings or specifications with respect to the Hotel, or for any other matter relating to the development, use or operation of the Hotel.

4.4. Pre-Opening Hotel Construction and Renovation. No pre-opening construction, conversion or renovation may commence until Franchisor has approved the Concept Design Proposal and Room Mock-Up and Franchisee has obtained building permits and has otherwise complied with all Applicable Laws (including all applicable codes and regulations). Franchisee shall construct the Hotel in full compliance with the approved Concept Design Proposal and Room Mock-Up, and no material and/or design changes may be made to the Concept Design Proposal and Room Mock-Up without Franchisor's prior written consent. During construction, Franchisor may require Franchisee to provide progress reports on the timeline and with the frequency designated in the Technical Services. Franchisor may also require weekly (or more or less frequent) meetings to monitor Franchisee's construction progress, all as designated in the Technical Services. Franchisor also has the right to visit the Approved Site at any time to inspect the work. If Franchisor believes that the construction does not fully comply with the approved Concept Design Proposal and Room Mock-Up or has not been performed in a manner that Franchisor determines in its sole judgment meets the Brand Standards, Franchisor may notify Franchisee of the deficiencies, and Franchisee shall correct them promptly and within the timeframe designated by Franchisor in the Technical Services exhibit or otherwise. Franchisor will not authorize the Hotel to open as a Brand Hotel until all deficiencies are corrected.

4.5. Furniture, Fixtures and Equipment. At the same time that Franchisee submits to Franchisor its Concept Design Proposal and Room Mock-Up, Franchisee must also submit to Franchisor its proposed FF&E and interior design elements for review and approval. "FF&E" means all furniture, fixtures, telephone systems; communications systems; facsimile machines; copiers; signs; the technology system and other property management, revenue management, in-room entertainment, and other computer and technology systems; and other similar items or equipment that Franchisor periodically specifies (including specific brands) for the Hotel. Franchisee will not acquire or install any FF&E unless and until Franchisor approves such FF&E in writing. Franchisee shall not acquire or install any non-standard FF&E or interior design elements without Franchisor's prior written approval.

4.6. Hotel Opening, Timing and Extension. Upon written notice from Franchisee that construction has been completed in accordance with Franchisor's Brand Standards, approved Concept Design Proposal and approved Room Mock-Up, Franchisor will conduct an on-site visit to the Hotel to determine to Franchisor's satisfaction whether the Hotel satisfies Franchisor's Brand Standards. After this on-site visit, Franchisor may authorize in writing Franchisee to open the Hotel as a Brand Hotel and install the outside signage or may withhold authorization to open the Hotel as a Brand Hotel pending the completion of additional work. If the on-site visit reveals adjustments which need to be made by Franchisee, Franchisor may, at its sole option, extend the projected Opening Date by an additional three (3) months. Franchisor is not obligated to extend the Opening Date. If Franchisor agrees to extend the time for the Opening Date, then Franchisee will pay to Franchisor an extension fee of Five Thousand Dollars (\$5,000) for each three (3)-month extension. If the on-site visit reveals minor adjustments to be made by Franchisee and Franchisor does not consider it necessary to postpone the projected Opening Date, Franchisee agrees to implement those minor adjustments within sixty (60) calendar days after receiving written notice from Franchisor. The Technical Services exhibit sets forth the process for such site visits and the correction of defects. All costs associated with signage and visual identity (including the installation costs) will be borne by Franchisee. Franchisee acknowledges that it will make commercial (and marketing) commitments several months before the projected Opening Date. Therefore, Franchisee shall be fully responsible for any delays in opening the Hotel to the public due to Franchisee's failure to complete its pre-opening obligations

prior to the projected Opening Date.

4.7. Pre-Opening Inspections. Franchisor may at any time, and without prior notice to Franchisee, undertake an on-site visit to review whether the Hotel's development, construction, and renovation is in accordance with the provisions of this Agreement, the PIP and Franchisor's System and Brand Standards. Franchisor may designate in its Manuals the required scores and metrics that Franchisee must attain during such inspections and visits. Franchisee must reimburse Franchisor for the costs Franchisor incurs if Franchisor determines in its sole judgment that more than one inspection is required.

## 5. TRAINING.

5.1. Training. The Hotel will at all times be managed by personnel who have successfully completed all required training designated by the Franchisor.

5.1.1. Initial Owner Orientation. Within the time period that Franchisor reasonably specifies after the Effective Date, (a) Franchisee's managing owners must attend an owner orientation program and (b) a senior operations officer for Franchisee must attend an operator orientation program, in each case either in person or virtually, as designated by Franchisor. If such orientation will take place in person, then the training will be at a location designated by the Franchisor. Franchisor does not currently charge a fee for the orientation program. Franchisee is responsible for all related travel costs and living expenses incurred by Franchisee's designated attendees to complete the orientation program.

5.1.2. General Manager Induction Training. Within the time period that Franchisor reasonably specifies before the Hotel's Opening Date, the Hotel's proposed general manager must attend an orientation program either in person, online or virtually, as designated by Franchisor. If such orientation will take place in person, then the training will be at a location designated by the Franchisor. If Franchisee replaces the Hotel's general manager during the Term, the replacement general manager must attend the orientation program within thirty (30) days (or such longer period that Franchisor periodically designates) after assuming that position. Franchisee must pay Franchisor's then current training fee for the initial general manager orientation. In addition, Franchisee is responsible for all related travel costs and living expenses incurred by Franchisee's designated attendees to complete the orientation program.

5.1.3. Pre-Opening Training Programs for Other Hotel Personnel. Before the Opening Date, all Hotel personnel whom Franchisor specifies must attend and successfully complete Franchisor's required brand standard training programs for their respective positions, either in person, online or virtually, as designated by Franchisor. During the Term, if Franchisee replaces any individual whom Franchisor required to attend training, that person's replacement must attend and successfully complete the applicable required brand standard training programs that Franchisor reasonably specifies within ninety (90) days (or such longer period that Franchisor periodically designates) after assuming that position, either in person, online or virtually, as designated by Franchisor. Franchisor will designate the dates, locations, and duration of training. Franchisee must pay Franchisor's then current fee and the trainers' travel and living expenses associated with any training that Franchisor provides on-site at the Hotel. In addition, Franchisee is responsible for all related travel costs and living expenses incurred by Franchisee's designated attendees to complete the training programs.

5.1.4. Supplemental and Optional Training. Franchisor may, at such times and places as it deems best, require Hotel personnel that Franchisor reasonably specifies to participate in conventions, meetings, and other brand standard training programs that Franchisor periodically specifies either in person, online or virtually, as designated by Franchisor. Franchisor also may, at

its option, offer various optional training programs from time to time during the Term.

5.1.5. Training Fees and Expenses. Franchisee must pay Franchisor's then current fees for any conventions, meetings and other initial, supplemental and optional training programs that the Hotel's personnel attend. Franchisee also is responsible for all related compensation, and travel and living expenses that Hotel personnel incur. If Franchisor holds any training on-site at the Hotel, Franchisee must pay travel and living expenses of Franchisor's representatives.

5.2. Delegation by Franchisor. Any obligation imposed on Franchisor by this Agreement (including the Technical Services under Section 4.2 and the training obligations under this Section 5) may be performed, at Franchisor's discretion, by any Affiliate, designee, employee or agent of Franchisor, as Franchisor may direct. If Franchisee enters into an agreement with a third party for any support services, such third party – and not Franchisor – is liable to Franchisee for adequate performance under the applicable agreement.

## **6. OPERATION OF THE HOTEL; MAINTENANCE, MANAGEMENT AND MARKETING.**

6.1. Operation in Accordance with the System and Brand Standards. Franchisee must operate the Hotel twenty-four (24) hours a day, every day, and use the Hotel and its premises solely for the business franchised under this Agreement; provided, however, that Franchisee may sublease certain retail and other spaces within the Hotel only with Franchisor's prior written approval. Franchisee, and not Franchisor, shall be responsible for providing a safe and secure environment at the Hotel and the Approved Site for guests, employees, and members of the public. Franchisee must, at all times and at Franchisee's cost, ensure that the Hotel is operated in compliance with the System and all other mandatory Brand Standards that Franchisor periodically communicates to Franchisee, as Franchisor may periodically modify them. Brand Standards may regulate any aspect of the Hotel's operation and the products and services that the Hotel uses and offers to guests and other customers, including participation in and compliance with the terms of all of Franchisor's mandatory marketing, reservation service, rate and room inventory management, advertising, guest frequency and loyalty, social responsibility, discount or promotional, training and operating programs, including a property management system. Franchisee must sign and comply with any license, participation and other agreements Franchisor periodically specifies relating to these programs. Franchisor or its Affiliates have and retain all ownership rights in and to the System and Brand Standards and Franchisee has only the right to use the System and Brand Standards under the terms and conditions of this Agreement.

Despite Franchisor's right to establish and periodically to modify Brand Standards for the Hotel and modify the System as Franchisor deems best, Franchisee retains the right to control, and responsibility for, the Hotel's day-to-day management and operation and implementing and maintaining Brand Standards at the Hotel. Because complete and detailed uniformity under many varying conditions might not be possible or practical, Franchisor reserves the right, as Franchisor deems best, to vary the System and Brand Standards for any Brand Hotel based upon the peculiarities of any condition or factors that Franchisor considers important to that hotel's successful operation. Franchisee has no right to require Franchisor to grant Franchisee a similar variation or accommodation.

Franchisor and Franchisee agree that any materials, guidance or assistance that Franchisor provides with respect to employment-related policies or procedures are solely for Franchisee's (and/or any Management Company's) optional use. Those materials, guidance and assistance do not form part of the mandatory Brand Standards. Franchisee (or the Management Company) will determine to what extent, if any, these materials, guidance or assistance should apply to the Hotel's employees. Franchisee acknowledges that Franchisor does not dictate or control labor or employment matters for franchisees and their employees. Franchisee (or the Management Company) is solely responsible for determining the terms and conditions of employment for all Hotel employees, for all decisions concerning the hiring, firing and

discipline of Hotel employees, and for all other aspects of the Hotel's labor relations and employment practices.

6.2. Management of the Hotel. The Hotel will at all times be operated by Franchisee or by a Management Company approved by Franchisor in its sole discretion. Franchisee shall comply, and will cause any Management Company to comply, with the provisions of this Agreement regarding the management and operation of the Hotel. The Management Company will be identified on Exhibit A. Franchisee agrees to deliver to Franchisor a revised Exhibit A to reflect any changes in the information that Exhibit A now contains, including any new or replacement Management Company. Franchisee shall cause any Management Company retained by Franchisee to: (i) provide Franchisor with all information that Franchisor reasonably requests to enable Franchisor to evaluate Management Company's satisfaction of the Management Company Qualifications, (ii) provide to Franchisor, at Franchisor's request, a signed rider to this Agreement or other management agreement for the Hotel in a form approved by Franchisor in writing.

6.3. FF&E and OS&E. Franchisee shall purchase and install, at Franchisee's expense, all FF&E, OS&E (including specific brands), decor and other items (including signs and other brand identification items) as may be required from time to time by the Brand Standards and in the Manuals. Franchisee shall refrain from installing or permitting to be installed in, on or about the Hotel, any FF&E (including signs), OS&E, or other items that do not comply with the Brand Standards. Franchisee shall prominently display in and upon the premises of the Hotel such signs as are required by Franchisor in the Manuals or as otherwise directed or approved by Franchisor from time to time in writing. All such signs shall be of a nature and in the form, color, number, location, size and content as specified by Franchisor in the Manuals or otherwise in writing.

6.4. Maintenance, Renovations and Restoration.

6.4.1. Maintenance. Franchisee shall, at Franchisee's cost, maintain the Hotel in accordance with Brand Standards and Applicable Law and shall make any alterations, repairs and replacements as may be required by Franchisor (including in accordance with any designated time period established by Franchisor) for that purpose (but no others without Franchisor's prior written consent), including periodic repainting and replacement of FF&E. Franchisee may also submit to Franchisor for its prior written consent, any and all plans and specifications relating to proposed changes, alterations, or renovations of the Hotel that Franchisee would like to undertake, and shall enter into such technical assistance agreements with Franchisor or its Affiliates as Franchisor may require.

6.4.2. Renovations; Property Improvement Plans. Franchisor may from time to time deliver a PIP to Franchisee setting out the renovations to be completed and the timeframes in which such renovations must be completed. Franchisee shall, at Franchisee's cost, promptly commence and diligently complete the required works in accordance with each PIP (each of which are subject to Franchisor's review), the Brand Standards and Applicable Law. Franchisee shall pay to Franchisor a fee of Twenty Thousand Dollars (\$20,000) for preparing each PIP and all expenses incurred in site visits that Franchisor and Franchisee reasonably determine are required to monitor performance of the PIP. At Franchisor's request, Franchisee shall make Short-Term Renovations to the Hotel. Additionally, at Franchisor's request, which shall not be made more often than once every seven (7) years during the Term, Franchisee shall make Long-Term Renovations to the Hotel to conform the Hotel to the then-current Brand Standards. All Short-Term Renovations and Long-Term Renovations shall be at Franchisee's sole expense. In order to assist Franchisee in having funds available to make any necessary expenditures under this Section 6.4.2, Franchisee shall deposit into a separate account that Franchisee controls an amount equal to the greater of (i) the amount required by Franchisee's lender, or (ii) four percent (4%) of the Hotel's Gross Rooms and

Banquet Sales each month. Upon Franchisor's reasonable request, Franchisee will periodically provide Franchisor information concerning the funds in and expenditures from that account. Franchisee shall use such funds only for the purpose of making approved expenditures and complying with any PIPS and its upgrade and other obligations under this Section 6.4.2, although such obligations may require Franchisee to spend more than the amount then in that account.

6.4.3. Restoration. If the Hotel is damaged by fire or other casualty, then Franchisee must comply with its obligations in Section 11.3 of this Agreement.

6.5. Suppliers.

6.5.1. Approved Suppliers. Franchisor may designate approved suppliers, if any, in its Manuals and Brand Standards. These approved suppliers can be designated as mandatory or optional. In designating an approved supplier, Franchisor will consider if the prices and terms of the products or services available from such supplier are competitive with those of similar items of equal quality available on an arm's length basis from other reputable and qualified unrelated third-party suppliers.

6.5.2. Alternative Suppliers. If the Brand Standards set specifications for any FF&E, OS&E, or other supplies or services and Franchisee wishes to buy such an item from a supplier who is not an approved Supplier for the relevant item. Franchisee shall first provide Franchisor with all such information and samples that Franchisor may reasonably request to assess such supplier's ability to meet the applicable Brand Standards. Franchisor may approve or disapprove any proposed supplier, may approve a supplier conditionally and may revoke any approval. Franchisor may charge Franchisee for Franchisor's costs to review Franchisee's request and to evaluate the product, service and/or source. Franchisor shall provide its comments to Franchisee within a reasonable timeframe. Franchisee shall not buy any FF&E, OS&E, or other equipment or services from a supplier not approved by Franchisor.

6.6. Legal Compliance. Franchisee must strictly comply with all Applicable Laws, including all laws, rules, regulations and other legal and governmental requirements concerning the Hotel's development and operation, such as by (a) ensuring that the Hotel is at all times in full compliance with the Accessibility Laws; (b) paying all Taxes when due; and (c) obtaining and maintaining all licenses and permits necessary to operate the Hotel. Franchisee agrees to comply, and to assist Franchisor to the fullest extent possible in its efforts to comply, with the Trade Restriction Laws, Anti-Corruption Laws and Privacy Laws. In connection with that compliance, Franchisee (on behalf of itself and its Affiliates and Owners) certifies, represents, and warrants as of the Effective Date that none of Franchisee's nor any such Affiliate's or Owner's property or interests is subject to being blocked under, and that Franchisee and such Owners otherwise are not in violation of, any of the Trade Restriction Laws. Franchisee represents and warrants that as of the Effective Date it has in place, and covenants to maintain in place throughout the Term, commercially reasonable compliance programs, policies and procedures designed to prevent any violations of, and promptly to detect any risks of violation or potential violation of, any Trade Restriction Laws, Anti-Corruption Laws or Privacy Laws, including procedures for conducting background checks on Owners and prospective Owners.

6.7. Reservation System. Franchisee must, at Franchisee's cost, only use the Reservation System designated by Franchisor and must comply with all terms and conditions of participation, including those set forth in Section 10 of this Agreement and in the Manuals. In accordance with any instructions from Franchisor or Franchisor's designated suppliers, as well as in accordance with Section 6.10, Franchisee shall purchase, install and maintain at the Hotel all equipment necessary for participation in the Reservation System, including any required reservation terminals and related equipment and any future enhancements, additions, substitutions or other modifications specified by Franchisor in the Manuals or

otherwise in writing.

6.8. Room Rates and Other Identifying Hotel Information to be Included in Reservation System. At such time as Franchisor may request, Franchisee shall furnish to Franchisor in writing such information as Franchisor may request to list the Hotel in the Reservation System. Failure to timely respond to Franchisor's request for such information may result in Franchisee's Hotel not being listed and, in such event, Franchisee agrees that neither Franchisor nor Franchisor's Affiliates shall be liable for any such omission. Franchisee will determine the Hotel's room rates, provided that those rates and Franchisee's pricing policies comply with Brand Standards (to the maximum extent permitted by law). Franchisee shall not engage in any rate practices that violate Brand Standards or which tend to mislead the public in any way.

6.9. Marketing. Franchisee shall, at its expense, participate in and comply with the terms of all advertising and marketing programs and policies required by Franchisor or its Affiliates for the Brand Hotels (including any Internet advertising and marketing conducted and prescribed by Franchisor), in the manner described in the Manuals or otherwise in writing. Such programs and policies may include the mandatory participation in the NH Loyalty Program and any successor or replacement program, a guest satisfaction program, a quality assurance program, web internet and other programs designated by Franchisor. For the avoidance of doubt, Franchisee may not participate in or promote any other loyalty program.

6.9.1. Pre-Opening Marketing Program and Expenditure. Within a timeframe agreed upon by the Parties, Franchisee must prepare and submit to Franchisor for its approval a written pre-opening marketing program that satisfies Franchisor's requirements and contemplates spending at least an amount equal to One Hundred Sixty Thousand Dollars (\$160,000) during the three-month period covering the first two months before the Hotel's Opening Date and the first month immediately following the Hotel's Opening Date. Franchisee must change the program as Franchisor specifies and implement the approved program. Franchisee cannot undertake a pre-opening marketing program until it is approved by Franchisor in writing.

6.9.2. Participation in Advertising and Marketing. Franchisee acknowledges that promoting Brand Hotels as a single chain in the United States and around the world is an important part of the System. Franchisee must participate in and use, in the manner that Franchisor specifies, all advertising, marketing and promotional activities, materials and programs that Franchisor periodically requires for the Hotel.

6.9.3. Approval of Marketing Programs and Materials. Subject to Franchisor's requirements and at Franchisee's expense, Franchisee may conduct local and regional marketing, advertising and promotional programs for the Hotel. These programs exclude performance marketing or any activities that compete with Franchisor's Brand Hotels, hotels operating under Franchisor's or its Affiliates' other brands and properties (these performance marketing activities include brand bidding on search engines, participation in metasearch initiatives, affiliate marketing programs, and retargeting efforts). Franchisee may not undertake any marketing campaign for the Hotel without first obtaining Franchisor's prior written approval. Franchisee must ensure that all advertising, marketing, and promotional materials, all public relations plans and programs, and all uses of the Proprietary Marks are conducted in a dignified manner and in accordance with the Brand Standards, including the use of Franchisor's standard templates (and policies) where applicable, and which may, at Franchisor's option, require Franchisor's prior approval of materials (and related marketing initiatives and programs) not previously approved by Franchisor in the manner Franchisor specifies. Franchisee must discontinue using any materials, including previously-approved materials, and cease engaging in any plans and programs, including previously-approved plans and programs, within the timeframe Franchisor specifies after Franchisee receives written

notice from Franchisor. Franchisee may not use Personal Data in conducting marketing, advertising and promotional programs for the Hotel unless conducted by or through Franchisor or with Franchisor's supervision in each instance. Franchisee shall pay Franchisor the reasonable fees that Franchisor periodically establishes for optional marketing, advertising and promotional materials and programs that Franchisee chooses to acquire from Franchisor or its Affiliates or in which Franchisee chooses to participate.

6.9.4. Websites and Electronic Media. Franchisor or its Affiliates may maintain (or authorize any other entity to maintain) a website to advertise, market and promote all or a certain group of Brand Hotels that Franchisor periodically specifies (and, at Franchisor's (or its Affiliates') option, other NH Affiliated Hotel Group hotels). Franchisee must comply with all Brand Standards relating to any System website, including by providing Franchisor (or its designee) all information and other materials concerning the Hotel that Franchisor periodically requests and promptly notifying Franchisor whenever any information concerning the Hotel on the website is no longer accurate. By providing Hotel-related information and materials, Franchisee is representing to Franchisor that they are accurate and not misleading and do not infringe any third party's intellectual property or other rights. Franchisor shall have the final decision about all information or materials appearing on the website. Any social media presence must adhere to Franchisor's Brand Standards and policies regarding social media. As between Franchisor and Franchisee, Franchisor owns all intellectual property rights and other rights in and to the website, including data that visitors supply or the website obtains. Franchisor and its Affiliates may discontinue the website and/or any of its content (including separate webpages for participating Brand Hotels) at any time.

Franchisee may not develop, maintain or authorize any website or other electronic medium (other than as specified by Franchisor) that either has the initials "NH" or any similar word, or any of the Proprietary Marks, as part of its domain name or URL or that accepts reservations for the Hotel (other than through an approved link to Franchisor's designated website) or otherwise sells any products or services associated with the Hotel or any of the Proprietary Marks. Franchisee may not register any social media profile, or apply any domain name, develop, maintain or authorize any other website, other online presence or other electronic medium that describes or in any other way promotes the Hotel or displays any of the Proprietary Marks without Franchisor's written approval. Franchisee may, with Franchisor's approval (which it will not unreasonably withhold) and subject to compliance with Brand Standards, authorize any third party travel website or Franchisee website to list and promote the Hotel together with other hotels. Franchisee (directly nor through third parties) is not authorized and should refrain from using NH domains/urls or any of the Proprietary Marks domains/urls without formal Franchisor approval.

6.10. Computer Systems. Franchisee shall purchase or license, install, utilize and maintain at the Hotel, at its sole cost, all Software, hardware and equipment necessary to operate and maintain the Computer System and/or data processing systems (including successor systems and improvements to existing systems) specified or required from time to time by Franchisor or its Affiliates for use by Brand Hotels, including, but not limited to, guest check-in, reservation, PMS, revenue and other statistical reporting systems. The foregoing obligation shall include any enhancements, additions, substitutions or other modifications to the Software, hardware and equipment that may be required from time to time. Franchisee shall be responsible for all costs incurred in fulfilling its obligations hereunder, including data circuit charges, charges for connecting Franchisee's equipment to Franchisor's systems and databases, the cost of supplies used in the operation of the equipment, maintenance, help desk, and support services, and for other related expenses. Franchisee shall be responsible for the payment of all license and other fees required by the terms of any PMS Software license agreement, or any other software license agreement required by Franchisor. And Franchisee shall not purchase, install, utilize, or maintain any computer Software, hardware, or other telecommunications equipment that has not been previously approved in

writing by Franchisor.

6.11. IT Security. Franchisee expressly acknowledges that security of its local IT system is critical, and that any breach of security may have a material adverse impact on the Brand Hotel brand and Franchisor's and N.H Hotel Group S.A.'s business and reputation. Accordingly, Franchisee shall at its cost maintain security arrangements which are sufficient to: (i) prevent attacks to the IT system and the information and data, including Personal Data, entered therein; (ii) ensure the availability of its local IT system to Franchisor (or its designee) twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year; (iii) protect the integrity and security of Personal Data (including credit card information); (iv) ensure that Personal Data is not lost, altered, destroyed, corrupted or (without appropriate authorization) disclosed; (v) ensure that there is not breach of confidentiality; and (vi) in case of any IT security problem, immediately notify Franchisor's IT team. Franchisor reserves the right to view remotely or in person Franchisee's Computer System for compliance with security requirements. Without limiting the foregoing, Franchisee shall at its cost maintain compliance with the then current PCI DSS.

6.12. Post-Opening Inspections and Guest Surveys. Franchisor may at any time, and without prior notice to Franchisee, undertake an on-site visit to review whether Franchisee's and the Hotel's operation, maintenance, management and marketing is in accordance with the provisions of this Agreement, any applicable PIP and Franchisor's System and Brand Standards. Franchisor may also require Franchisee to offer to guests the opportunity to complete guest surveys in a form and format designated by Franchisor. Franchisor may designate in its Manuals the required scores and metrics that Franchisee must attain during such inspections and visits. Franchisee must reimburse Franchisor for the costs Franchisor incurs if Franchisor determines in its sole judgment that more than one inspection is required.

## 7. FEES AND COSTS.

Franchisee shall pay to Franchisor the following fees and costs, at the times, and in the manner, specified in Section 7.6 below. Unless otherwise specified below, none of the costs or fees are refundable:

7.1. Initial Application Fee. The initial Application Fee was fully earned by Franchisor and non-refundable upon Franchisor's approval of Franchisee's franchise application before Franchisor and Franchisee signed this Agreement. If Franchisor and Franchisee agree to add any guest rooms to the Hotel after signing this Agreement, then Franchisee must pay Franchisor, when Franchisor approves the additional guest rooms, an additional Application Fee in an amount equal to Five Hundred Dollars (\$500) multiplied by the number of additional guest rooms over 150 total guest rooms at the Hotel. This additional Application Fee is due, fully earned by Franchisor, and non-refundable on the date Franchisor approves Franchisee's plans to develop the additional guest rooms.

7.2. Continuing Franchise Fee. Franchisee will pay to Franchisor a monthly Continuing Franchise Fee in an amount designated by Franchisor, which amount will not exceed five percent (5%) of Gross Rooms and Banquet Sales for the preceding calendar month.

7.3. Marketing Fee. Franchisee will pay to Franchisor a monthly Marketing Services Fee in an amount equal to one and one-half percent (1.5%) of Gross Rooms and Banquet Sales for the preceding calendar month.

7.4. Reservation Fee. Franchisee will pay to Franchisor a quarterly reservation fee in an amount designated by Franchisor, which amount will not exceed five-and-one-half percent (5.5%) of quarterly confirmed revenue derived from any reservations made through the Central Reservation Team (CRO) plus five-and-one-half percent (5.5%) of quarterly confirmed revenue derived from any reservation made through the Group and Events Management Team (GEM). ("**Reservations Fee**").

7.5. Pre-Opening Technical Services. Franchisee must pay to Franchisor, or reimburse

Franchisor or its Affiliates for, the then current fees and costs for the pre-opening Technical Services described in Section 4.2 and on Exhibit C of this Agreement, as well as for all. The costs and expenses associated with any Technical Services that are also provided to other NH Affiliated Hotel Group hotels will be allocated to such other brands on a fair and consistent basis taking into account the level of such Technical Services being provided to each of such other brands.

7.6. Brand Services Costs. In addition to the fees and costs listed above, Franchisee must pay to Franchisor, or reimburse Franchisor or its Affiliates for, the then current Brand Services Costs in accordance with Section 7.7 below.

7.7. Time and Manner of Payment. All monthly/quarterly payments required by this Section 7 shall be paid to Franchisor within ten (10) days after the end of each calendar month/quarter for amounts accrued during the immediately preceding calendar month/quarter, commencing with the calendar month/quarter in which the Opening Date occurs, and shall be submitted together with all monthly/quarterly reports required under this Agreement. Franchisor may direct that all such monthly payments be made to a bank account designated by Franchisor by wire transfer, by automated clearinghouse (ACH) transfer, or by other means which Franchisor may specify from time to time, in accordance with procedures set forth in the Manuals. All other payments required by this Agreement shall be made no later than ten (10) days following the date of Franchisor's applicable invoice.

7.8. Late Payments. If any payment due to Franchisor or its Affiliates by Franchisee is not received on or before its due date, the payment shall be deemed overdue and Franchisee shall pay to Franchisor or its Affiliates, in addition to the amount overdue, interest on the overdue amount from the day it was due until paid at the rate equal to the lesser of one and one half percent (1.5%) per month or the maximum rate permitted by law. In addition to other remedies available to Franchisor, Franchisee may be subject to suspension or termination from the Reservation System and/or other distribution channels if Franchisee fails to timely pay Franchisor, its Affiliates, or a third party distribution channel, as applicable.

7.9. Payments Net of Taxes. All sums payable by Franchisee to Franchisor or its Affiliates under this Agreement shall be made without set off or counterclaim and without any Tax deduction or withholding unless required by law. If a Tax deduction is required by law to be made by or on behalf of the Franchisee, the amount of payment due from the Franchisee shall be increased to an amount which after making any Tax deduction leaves an amount equal to the payment which would have been due if no Tax deduction had been required. For the avoidance of doubt, Franchisee agrees to promptly pay to Franchisor an amount equal to all Taxes levied or assessed, imposed upon or required to be collected or paid by Franchisor by reason of the furnishing of products, intangible property (including trademarks) or services to Franchisee. Nothing in this Section 7.9 shall require Franchisee to pay or reimburse Franchisor for Franchisor's income taxes payable by Franchisor on its income.

## **8. PROPRIETARY MARKS, CONFIDENTIAL INFORMATION AND MANUALS.**

8.1. Ownership and Goodwill of Proprietary Marks, Copyrighted Materials, and Confidential Information. Franchisee's right to use the Proprietary Marks, any copyrighted materials, and Confidential Information is derived only from this Agreement and is limited to Franchisee's developing and operating the Hotel according to this Agreement and all Brand Standards that Franchisor prescribes during the Term. Franchisee may not apply for registration of a trademark under the Brand or any other name similar or identical to any other registered trademark of the Franchisor or its Affiliates. Franchisee's unauthorized use of the Proprietary Marks, copyrighted materials, or Confidential Information is a breach of this Agreement and infringes Franchisor's (and its Affiliate's) rights in them. Franchisee's use of the Proprietary Marks, copyrighted materials, and Confidential Information and any goodwill established by that use are exclusively for Franchisor's and its Affiliate's benefit, and this Agreement does not confer any goodwill or other interests in the Proprietary Marks, any copyrighted materials or Confidential Information

upon Franchisee, other than the right to develop and operate the Hotel under this Agreement. Franchisee may not at any time during or after the Term contest or assist any other person or entity in contesting the validity, or Franchisor's and its Affiliate's ownership, of any of the Proprietary Marks, any copyrighted materials, or Confidential Information.

8.2. Limitations on Franchisee's Use of Proprietary Marks. Franchisee agrees to use the Proprietary Marks as the Hotel's sole identification (including within the Hotel's name, subject to Franchisor's approval), except that Franchisee must identify itself as the Hotel's independent owner in the manner that Franchisor periodically specifies. Franchisee may not use any Proprietary Mark: (a) as part of any corporate or legal business name; (b) with any prefix, suffix, or other modifying words, terms, designs, or symbols (other than logos Franchisor licenses to Franchisee); (c) in providing or selling any unauthorized services or products; (d) as part of any domain name, homepage, meta tags, keyword, electronic address, social media handle or account, or otherwise in connection with a website, social media or similar online presence (unless Franchisor has approved such use in advance); or (e) in any other manner Franchisor has not expressly authorized in writing. With Franchisor's written approval or as periodically specified by Franchisor, Franchisee may identify the Hotel in connection with electronic and other marketing materials, but Franchisee agrees that such descriptor is not a Proprietary Mark and Franchisor makes no representation concerning the validity of such use or Franchisee's right to use any such descriptor. If Franchisor discovers Franchisee's unauthorized use of the Proprietary Marks, in addition to Franchisor other rights and remedies under this Agreement and Applicable Law, Franchisor may require Franchisee to destroy (with no reimbursement from Franchisor) all offending items reflecting such unauthorized use. Franchisee may not use any Proprietary Mark in advertising the transfer, sale, or other disposition of the Hotel or an ownership interest in Franchisee or any of its Owners without Franchisor's prior written consent, which Franchisor will not unreasonably withhold. Franchisee agrees to display the Proprietary Marks prominently as Franchisor periodically prescribes at the Hotel and on advertising and other materials Franchisor periodically designates. Franchisee agrees to give the notices of trade and service mark registrations that Franchisor periodically specifies and to obtain any fictitious or assumed name registrations required under Applicable Law.

8.3. Notification of Infringements and Claims. Franchisee agrees to notify Franchisor immediately of any apparent infringement or challenge to Franchisee's use of any Proprietary Mark, any copyrighted materials, or Confidential Information, or of any person's claim of any rights in any Proprietary Mark, copyrighted materials, or Confidential Information, and not to communicate with any person other than Franchisor, its Affiliates, and its and their attorneys, and Franchisee's attorneys, regarding any infringement, challenge, or claim. Franchisor and its Affiliates may take the action it and they deem appropriate (including no action) and control exclusively any proceeding arising from any infringement, challenge, or claim or otherwise concerning any Proprietary Mark, any copyrighted materials, or Confidential Information. Franchisee agrees to sign any documents and take any other reasonable actions that, in the opinion of Franchisor's and its Affiliates' attorneys, are necessary or advisable to protect and maintain Franchisor's and its Affiliates' interests in any Proceeding or otherwise to protect and maintain Franchisor's and its Affiliates' interests in the Proprietary Marks, Copyrighted Materials, and Confidential Information. Franchisor or its Affiliate will reimburse Franchisee's reasonable out of pocket costs for taking any requested action.

8.4. Discontinuing Use of Proprietary Marks. If it becomes advisable at any time for Franchisor and/or Franchisee to modify, discontinue using, and/or replace any Proprietary Mark and/or to use one or more additional, substitute, or replacement trade or service marks, Franchisee agrees to comply with Franchisor's directions within a reasonable time after receiving notice. Neither Franchisor nor its Affiliates will reimburse Franchisee for any costs or expenses incurred in connection with such directions, including expenses of changing the Hotel's signs, any loss of revenue due to any modified or discontinued Proprietary Mark, or Franchisee's expenses of promoting a modified or substitute trademark or service mark. Franchisor's rights in this Section 8.4 apply to any and all of the Proprietary Marks (and any portion of any

Proprietary Mark) that this Agreement authorizes Franchisee to use.

8.5. Confidential Information. Franchisor and its Affiliates possess (and will continue to develop and acquire) Confidential Information, some of which constitutes trade secrets under Applicable Law. Franchisee agrees that the Confidential Information is proprietary to Franchisor and its Affiliates, includes Franchisor's and its Affiliate's trade secrets, and is disclosed to Franchisee only on the condition that Franchisee agrees, and Franchisee hereby does agree, that Franchisee: (a) will not use (or allow any of its Affiliates to use) Confidential Information in any other business or capacity; (b) will keep confidential each item deemed to be a part of Confidential Information, both during and after the Term (afterward for as long as the item is not generally known in the hotel industry); (c) will not make unauthorized copies of any Confidential Information disclosed via electronic medium or in written or other tangible form; and (d) will adopt and implement reasonable procedures that Franchisor periodically specifies to prevent unauthorized use or disclosure of Confidential Information.

8.6. Manuals. Franchisee and its Owners shall at all times treat the Manuals and the information contained therein as confidential and shall use all reasonable efforts to maintain the confidentiality thereof, in accordance with Section 8.5 of this Agreement. The Manuals shall remain at all times the sole property of Franchisor or its Affiliates. Franchisee shall keep any hard copies printed from the Manuals in a secure place on the Hotel premises and shall keep access to the Manuals secure. Franchisor may from time to time revise the contents of the Manuals, and Franchisee agrees to comply promptly with each new or changed Brand Standard. In the event of any dispute as to the contents of the Manuals, the master copies of the Manuals maintained by Franchisor controls. Franchisor may (but is not obligated to) inspect Franchisee's printed hard copy from the Manuals at any time during business hours to determine whether Franchisee is complying with its obligations.

8.7. Guest Personal Data. All Guest Personal Data gathered from guests or other third parties at the Hotel is owned by Franchisor, is deemed Franchisor's Confidential Information and is subject to the Data Protection Agreement (as it may be amended) that Franchisee will sign simultaneously with this Agreement. Franchisor, as Controller (as defined in the Data Protection Agreement), has the right from time to time during the Term, without notice to Franchisee, to access the Hotel's property management system and other computer systems to retrieve Guest Personal Data and other guest information. Franchisor and its Affiliates may use, and allow others to use, the Guest Personal Data in any manner that Franchisor deems appropriate (subject to Applicable Law). Franchisee may use the Guest Personal Data, as a Processor (as defined in the Data Protection Agreement, and certain other information and data relating to guests and customers of other Brand Hotels and/or other NH Affiliated Hotel Group hotels that Franchisor periodically specifies, during the Term only to provide services to guests and potential guests of the Hotel in accordance with the Brand Standards and all Applicable Laws, rules and regulations. At Franchisee's sole risk and responsibility, Franchisee may use Guest Personal Data that Franchisee acquired from guests at the Hotel or other third parties in connection with operating the Hotel at any time during or after the Term, to the extent that Franchisee's use is permitted by Applicable Law.

8.8. Innovations. All Innovations must be promptly disclosed to Franchisor and will be deemed to be Franchisor's sole and exclusive property, part of the System, and works made for hire for Franchisor. However, Franchisee may not use any Innovation in operating the Hotel or otherwise without Franchisor's prior written consent. If any Innovation does not qualify as a "work made for hire" for Franchisor, by this paragraph Franchisee assigns ownership of that Innovation, and all related intellectual property rights and other rights to that Innovation, to Franchisor and agrees to take whatever action (including signing assignment or other documents) that Franchisor requests to evidence its ownership or to help Franchisor obtain intellectual property rights in the Innovation.

## **9. REPORTS, BOOKS AND RECORDS.**

9.1.1. Reports. Franchisee must prepare and deliver to Franchisor the operating statements, financial statements and other reports relating to the Hotel that Franchisor periodically requires, prepared in the form, by the methods, and within the timeframes that Franchisor periodically specifies in the Brand Standards. Franchisor may use such information and may disclose data derived from these reports in any context that Franchisor deems appropriate. Franchisor may require Franchisee to have audited financial statements prepared and delivered to Franchisor annually during the Term.

9.1.2. Report of Lawsuits or other Actions or Events. Franchisee must notify Franchisor in writing within ten (10) days after Franchisee receives information or documentation about any lawsuit, action, or proceeding, or the issuance of any injunction, award, or decree of any court, quasi judicial body, or governmental agency, that might adversely affect the Hotel, Franchisee's ability to perform its obligations under this Agreement, or Franchisee's financial condition.

9.1.3. Preparation and Maintenance of Books and Records. Franchisee agrees to: (a) prepare on a current basis in a form satisfactory to Franchisor, and thereafter maintain in accordance with Brand Standards, complete and accurate records concerning Gross Rooms and Banquet Sales and all financial, operating, marketing, and other aspects of the Hotel; and (b) maintain an accounting system that fully and accurately reflects all financial aspects of the Hotel. Franchisor reserves the right to access Franchisee's Computer System independently to obtain sales information, occupancy information, and other data and information relating to the Hotel.

9.1.4. Audit. Franchisor may at any time during Franchisee's regular business hours, and with prior notice to Franchisee, examine Franchisee's and the Hotel's business and accounting records, tax records and returns, and other records. Franchisee agrees to cooperate fully in any examination. If any examination discloses an understatement of the Hotel's Gross Rooms and Banquet Sales, Franchisee agrees to pay Franchisor, within fifteen (15) days after receiving the examination report, the Continuing Franchise Fees and other fees due on the amount of the understatement, together with the late fee and interest. Furthermore, if Franchisor determines that an examination is necessary due to Franchisee's failure to furnish reports or other information when required, or if Franchisor's examination reveals a Continuing Franchise Fee or other fee underpayment of three percent (3%) or more of the total amount owed during any six (6) month period, or that Franchisee willfully understated the Hotel's Gross Rooms and Banquet Sales, Franchisee agrees to reimburse Franchisor for the costs of the examination, including out-of-pocket costs and compensation of Franchisor's employees. These remedies are in addition to Franchisor's other remedies and rights under this Agreement and Applicable Law.

## **10. RESERVATION SYSTEM.**

10.1. Franchisee's Use. Franchisee will only use the Reservation System designated by Franchisor with respect to reservations made for the Hotel. Unless otherwise agreed in writing by Franchisor, Franchisee will not establish its own web site, link its web site to Franchisor's web site, or participate in or link any web sites established by others, whether on the Internet or any other means of electronic communication or application programming interface (API), whether existing or developed in the future, for any purpose with respect to the Hotel without Franchisor's approval, in its sole judgment. Franchisee will use the Reservation System and web sites only in accordance with the Brand Standards. If Franchisee has registered a domain name or registers a domain name in the future with respect to the Hotel using any of the Proprietary Marks in violation of this Section, this Agreement serves as sufficient evidence for the domain name registrar to transfer ownership of the domain name to Franchisor within the timeframe dictated by Franchisor.

10.2. Referrals. The Reservation System may be used to refer individuals attempting to make a reservation at the Hotel to another Brand Hotel or other NH Affiliated Hotel Group property, when: (i) the Hotel is not in the area where the individual wants to stay, (ii) the Hotel is fully booked, or (iii) the Hotel

does not meet the individual's requirements in other respects.

10.3. Franchisor's Liability. Neither Franchisor nor their Affiliates has any liability to Franchisee if the Reservation System becomes inoperable or ceases to function due to equipment or software failure or for any other reason or cause including those caused by Franchisor's or its Affiliate's negligence and those for which Franchisor or its Affiliates might be held strictly liable, but excluding those caused by Franchisor's or its Affiliates' gross negligence or willful misconduct, respectively.

## 11. INSURANCE, CONDEMNATION AND DAMAGE.

11.1. Insurance. At Franchisee's expense, Franchisee must procure and at all times during the Term maintain such insurance covering the risks, in the amounts, and with the deductibles, retentions and other provisions, as set forth in the Brand Standards from time to time. If required by Franchisor, Franchisee's insurance policies must specifically name Franchisor and its Affiliates (and Franchisor's and their employees and agents) as additional insureds. Franchisee must purchase each policy from an insurance company reasonably acceptable to Franchisor. Either the insurer or Franchisee must provide at least thirty (30) days' prior written notice to Franchisor of any insurance policy's cancellation, non-renewal or material change. Franchisee must deliver to Franchisor a certificate of insurance (or certified copy of such insurance policy if Franchisor requests) evidencing the required coverages and setting forth the amount of any deductibles not less than ten (10) days after their respective inception dates. If Franchisee fails for any reason to procure or maintain the insurance required by this Agreement, Franchisor shall have the right and authority (although without any obligation to do so) to immediately procure such insurance and to charge Franchisee the cost together with a reasonable fee for Franchisor's expenses. Franchisor shall have the right to review Franchisee's insurance coverage for the foregoing requirements from time to time during the Term and to update requirements for insurance coverage in response to material changes in the circumstances of the Hotel, then-current industry practices, and changes in economic conditions. Franchisee shall promptly comply with Franchisor's updated requirements. Franchisor's insurance requirements as of the Effective Date are included in Exhibit D, and such insurance requirements are subject to change from time to time.

11.2. Condemnation. Franchisee must immediately notify Franchisor of any proposed taking all or a substantial portion of the Hotel by eminent domain, condemnation or expropriation. If the Parties do not otherwise agree to relocate the Hotel, then either Party may terminate this Agreement immediately upon written notice to the other. If this Agreement is terminated pursuant to this Section 11.2, then Franchisee shall not be required to pay liquidated damages at the time of termination; provided, however that Franchisee must comply with all of its other post-termination obligations under this Agreement.

11.3. Damage. If the Hotel is damaged by fire, flood, accident, hurricane or other casualty, Franchisee must notify Franchisor immediately.

(a) If the cost to repair the damage is less than or equal to the Damage Threshold, then Franchisee must repair the damage promptly according to the Brand Standards and this Agreement's other terms and conditions. If the damage or repair requires Franchisee to close all or any portion of the Hotel, then Franchisee must commence reconstruction as soon as practicable (but in any event within four (4) months) after closing the Hotel and reopen for continuous business operations as a Brand Hotel as soon as practicable (but in any event within twenty-four (24) months) after closing the Hotel, but not without complying with this Agreement's other terms and conditions. The Term will be extended for the period of time during which the Hotel is closed pursuant to this Section 11.3(a), and Franchisee need not make any payments of Continuing Franchise Fees while the Hotel is closed pursuant to this Section 11.3(a) unless Franchisee receives insurance proceeds compensating Franchisee for lost Gross Rooms and Sales Breakfast during such period, in which case Franchisee must pay Continuing Franchise Fees on the amount of proceeds received allocable

to such loss.

(b) If the cost to repair the damage from the casualty exceeds the Damage Threshold, then Franchisee may elect to terminate this Agreement upon written notice to Franchisor. If Franchisee elects to terminate this Agreement pursuant to this Section 11.3(b), then Franchisee shall not be required to liquidated damages, but must comply with its other post-termination obligations. If Franchisee does not elect to terminate this Agreement pursuant to this Section 11.3(b), Franchisee must repair the damage promptly according to the Brand Standards and this Agreement's other terms and conditions.

(c) Franchisee must provide Franchisor such documentation as Franchisor may reasonably request to calculate the Damage Threshold and the insurance proceeds Franchisee receives in connection with any casualty.

## **12. TRANSFER.**

12.1. Franchisor's Right to Transfer. Franchisee represents that Franchisee has not signed this Agreement in reliance on any particular direct or indirect owner, officer or employee remaining with Franchisor in that capacity. Franchisor may change its ownership or form and/or assign this Agreement and any other agreement to a third party without restriction and without notice to Franchisee. After Franchisor's assignment of this Agreement to a third party who expressly assumes the obligations under this Agreement, Franchisor no longer will have any performance or other obligations under this Agreement. Such an assignment shall constitute a release of Franchisor and a novation with respect to this Agreement, and the assignee shall be liable to Franchisee as if it had been an original party to this Agreement.

12.2. Franchisee's Transactions Generally. Franchisee understands and acknowledges that the rights and duties contained in this Agreement are personal to Franchisee and that Franchisor grants the rights under this Agreement to Franchisee in reliance on the business skill and financial capacity of Franchisee.

12.3. Franchisee Transfer. Franchisee shall not enter into or undergo a Franchisee Transfer without Franchisor's prior consent. Franchisee shall provide Franchisor with at least thirty (30) days' notice of any proposed Franchisee Transfer. Subject to Franchisee not being in default under this Agreement and the Hotel being in compliance with the Brand Standards and with Applicable Law, Franchisor will not unreasonably object to a Franchisee Transfer provided that the conditions set forth below are fulfilled:

(a) payment by the transferee of the then-current application fee to Franchisor with its submission of the application;

(b) retention of a Management Company consented to by Franchisor if Franchisor determines in its sole judgment that the transferee is not qualified to operate the Hotel;

(c) execution by the transferee of the then-current form of franchise and related agreements. The new franchise agreement will contain the standard terms for new Brand Hotels and such Franchisee shall be subject to the then current franchise disclosure and qualification requirements under Applicable Laws;

(d) a property improvement plan requiring the transferee to address any renovations necessary to comply with the Brand Standards, as reasonably determined by Franchisor;

(e) payment of all amounts due to Franchisor and its Affiliates and execution of a general release of all claims against Franchisor and its Affiliates;

(f) the transferee is not a Specially Designated National or Blocked Person or Competitor; and

(g) the transferee provides a Guaranty, subject to the approval of Franchisor.

12.4. Failure to Obtain Approval. If Franchisee pursues a Franchisee Transfer without Franchisor's prior consent, this shall constitute a material breach of this Agreement.

12.5. Expense Reimbursement. Franchisee or transferee (as appropriate) will reimburse Franchisor for its legal costs and expenses arising out of or associated with any Franchisee Transfer.

12.6. Successors and Assigns. Subject to the restrictions on transactions and encumbrances set forth herein, this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Whenever in this Agreement a reference is made to any entity or Party, such references shall be deemed to include a reference to the successors and permitted assigns of such entity or Party.

12.7. Financial Restrictions. Franchisee may incur or replace any indebtedness that is secured by the Hotel or the revenues of the Hotel if the maximum amount of indebtedness that is secured in respect of the Hotel is not more than seventy-five percent (75%) of the appraised value of the Hotel. Franchisee may not pledge as collateral, or grant a security interest in, this Agreement without Franchisor's consent, and will ensure that no person or entity with any legal or beneficial ownership of entities or property, including the following: stock, partnership, limited liability company, joint tenancy, leasehold, proprietorship, trust, beneficiary, proxy, power-of-attorney, option, warrant, and any other interest that evidences ownership or control in Franchisee will pledge as collateral, or grant a security interest in this Agreement without Franchisor's consent. If any persons or entity foreclose on, or exercises its rights against, the Hotel or such interests, Franchisor may exercise its rights under Section 13. If Franchisee's lender requests a comfort letter or any other documentation related to any financing, Franchisor may require Franchisee to reimburse Franchisor's outside counsel costs (if any) incurred with the processing and negotiation of any such documents.

### **13. TERMINATION RIGHTS.**

13.1. Immediate Termination. Franchisee will be in default and to the extent permitted by Applicable Law, Franchisor may terminate this Agreement without providing Franchisee any opportunity to cure the default and without the need of judicial proceedings, effective on notice to Franchisee (or on the expiration of any notice or cure period given by Franchisor or required by Applicable Law and without judicial or arbitral determination and without prejudice to any other claims or rights of Franchisor), if:

- (a) Franchisee or Guarantor is subject to an Insolvency Event;
- (b) Franchisee or Guarantor or any other person or entity that has an Ownership Interest in Franchisee or Guarantor, is or becomes a Specially Designated National or Blocked Person;
- (c) Franchisee or any of its Affiliates takes any action that constitutes a violation of Applicable Law that adversely affects the Hotel or its operation under the System;
- (d) a Franchisee Transfer occurs that does not comply with the terms of Section 12;
- (e) Franchisee loses its right to operate the Hotel or loses the right to possession of the Hotel;

- (f) the Hotel ceases to operate as a Brand Hotel;
- (g) after receiving a notice of underpayment from Franchisor, Franchisee under reports or understates Gross Rooms and Banquet Sales and/or Gross Non-Rooms Revenues and Banquet Sales (as those terms are defined in the Uniform System of Accounts once or more within any 24-month period of such notice of underpayment);
- (h) Franchisee permits a threat to public health or safety to occur from the condition of the Hotel or its operation, that in the opinion of Franchisor, could result in (a) substantial liability, or (b) an adverse effect on the Hotel, other Brand Hotels, or the Proprietary Marks and Franchisee fails to close the Hotel and remedy the condition on notice from Franchisor.

13.2. Default with Opportunity to Cure. Franchisor may, at its option, terminate this Agreement, without the need of judicial proceedings, for the events listed below (each an "**Event of Default**"), if after thirty (30) days' notice of default (or such greater number of days given by Franchisor or as required by Applicable Law and without judicial or arbitral determination and without prejudice to any other claims or rights of Franchisor), Franchisee fails to cure the default as specified in the notice:

- (a) Franchisee fails to begin or complete any renovation, repair, remodeling of the Hotel as required under this Agreement or the Brand Standards;
- (b) Franchisee and its Affiliates fail to pay any amounts due under this Agreement;
- (c) Franchisee does not comply with the Brand Standards (including any failures identified by Franchisor in writing during any on-site visit or inspection);
- (d) any Confidential Information (including any information contained in the Manuals) is disclosed in breach of this Agreement and Franchisee fails to remedy such disclosure in a manner acceptable to Franchisor;
- (e) Franchisee's use of Proprietary Marks, the Confidential Information or the System does not comply with this Agreement; or
- (f) any failure by Franchisee or any of its Affiliates to perform, keep or fulfill all or any portion of the material terms, covenants, undertakings, obligations or conditions set forth in this Agreement (including Franchisee's failure to timely open the Hotel, subject to any extensions granted by Franchisor pursuant to Section 4.6).

13.3. Additional Remedies. Without prejudice to the foregoing Franchisor may, subject to the other terms and conditions of this Agreement, also pursue any right to any and all remedies (including indemnification for breach of this Agreement and other equitable relief or any and all right to damages) which Franchisor may have against Franchisee or any Guarantor under the terms of this Agreement and the Guaranty, including the remedies as set forth in Section 14.

#### **14. SUSPENSION.**

In addition to any other remedies Franchisor has, upon and during the continuance of any event of default, Franchisor may suspend the services of the Reservation System, expenditures of any amounts on marketing for the Hotel's benefit and any other services Franchisor is required to provide, until the default

is cured to Franchisor's satisfaction, all without any liability by Franchisor to Franchisee. Suspension of any of such services does not constitute a constructive termination of this Agreement, and Franchisee will not seek or be entitled to equitable relief preventing or curtailing Franchisor's rights under this Section. Franchisee must continue to pay all fees and other amounts due under this Agreement for any suspension period. If Franchisor suspends the services of the Reservation System, and Franchisee subsequently cures the event of default, Franchisee will be required to pay the then-current administrative fee as set out in the Brand Standards before Franchisor will reinstate such services.

## **15. OBLIGATIONS UPON TERMINATION OR EXPIRATION OF THIS AGREEMENT.**

15.1. Certain Obligations of Franchisee. Upon the expiration or termination of this Agreement for any reason, the following provisions, which shall survive expiration or termination of this Agreement, shall be applicable in addition to, and without limiting any other rights of Franchisor or Franchisee pursuant to this Agreement or at law or equity.

15.1.1 All accrued and unpaid fees, charges, reimbursements, and other payments due to Franchisor under this Agreement as of the date of termination shall be paid by Franchisee to Franchisor within ten (10) days after the remittance to Franchisee by Franchisor of invoices therefor.

15.1.2 Franchisee will immediately stop using the Proprietary Marks, System, operating the Hotel as a Brand Hotel, and stop representing the Hotel to the public or holding it out as a Brand Hotel or a former Brand Hotel. Franchisee will accomplish this by, without limitation, removing, returning or destroying, at Franchisee's cost and as instructed by Franchisor: (i) the Brand Standards, any Confidential Information, marketing materials and all other printed materials containing the Proprietary Marks; (ii), all interior and exterior signs, FF&E and other items containing the Proprietary Marks; and (iii) anything else under Franchisee's control that might reasonably result in customers continuing to identify the Hotel as a Brand Hotel. Franchisee will, at its cost, cover up anything bearing the Proprietary Marks or otherwise identified as being associated with the System that cannot reasonably be removed on or before the expiration or termination date, until it can be removed.

15.1.3 Franchisee will not issue or make any statements or other communications for public dissemination, general or limited, regarding the termination of this Agreement or Franchisee's relationship with Franchisor, without Franchisor's approval.

### 15.2. Liquidated Damages

Franchisee acknowledges and confirms that Franchisor will suffer substantial damages as a result of the termination of this Agreement before the Term expires, including Brand Damages. Franchisor and Franchisee acknowledge that Brand Damages are difficult to estimate accurately and proof of Brand Damages would be burdensome and costly, although such damages are real and meaningful to Franchisor. Therefore, upon termination of this Agreement before the Term expires for any reason, Franchisee agrees to pay Franchisor, within ten (10) days after the date of such termination, liquidated damages in a lump sum equal to the following amounts: (a) if such termination predates the Opening Date of the Hotel, then Eight Hundred Thousand Dollars (\$800,000), (b) if the Hotel has been in operation for less than five (5) years, then Average Monthly Continuing Franchise Fees multiplied by sixty (60), (c) if the Hotel has been in operation for at least five (5) years but less than ten (10) years, then Average Monthly Continuing Franchise Fees multiplied by forty-eight (48); and (d) if the Hotel has been in operation for at least ten (10) years but less than fifteen (15) years, then Average Monthly Continuing Franchise Fees multiplied by twenty-four (24).

Franchisee agrees that the liquidated damages calculated under this Section 15.2 represent the best estimate of Franchisor's Brand Damages arising from any termination of this Agreement before the Term expires. Franchisee's payment of the liquidated damages to Franchisor will not be considered a penalty but, rather, a reasonable estimate of fair compensation to Franchisor for the Brand Damages Franchisor will incur because this Agreement did not continue for the Term's full length.

Franchisee acknowledges that Franchisee's payment of liquidated damages is full compensation to Franchisor only for the Brand Damages resulting from the early termination of this Agreement and is in addition to, and not in lieu of, Franchisee's obligations to pay other amounts due to Franchisor under this Agreement as of the date of termination and to comply strictly with the de identification procedures and Franchisee's other post termination obligations under this Agreement. If any valid law or regulation governing this Agreement limits Franchisee's obligation to pay, and/or Franchisor's right to receive, the liquidated damages for which Franchisee is obligated under this Section 15.2, then Franchisee shall be liable to Franchisee for any and all Brand Damages Franchisor incurs, now or in the future, as a result of Franchisee's breach of this Agreement.

## **16. TAXES AND INDEBTEDNESS.**

16.1. Payment of Taxes and Other Operational Expenses. Franchisee shall promptly pay when due all Taxes levied or assessed by any federal, state or local tax authority, and any and all other indebtedness incurred by Franchisee in connection with the operation of the Hotel, including amounts owed to Approved Suppliers and third-party distribution channels.

16.2. Bona Fide Payment Disputes. In the event of any *bona fide* dispute as to liability for Taxes assessed or other indebtedness, Franchisee may contest the validity of the amount of the Tax or indebtedness in accordance with the procedures of the taxing authority or Applicable Law, provided that such action does not result in any liability to or assessment of, any fine, penalty, or fee against, Franchisor or its Affiliates; however, in no event shall Franchisee permit a Tax sale or seizure by levy of execution or similar writ or warrant, or attachment by a creditor, to occur against the Hotel, any part thereof, or any of its assets.

## **17. INDEPENDENT CONTRACTOR AND INDEMNIFICATION.**

17.1. Independent Contractor. The Parties understand and agree that, in connection with its performance under this Agreement, Franchisee, its agents and employees, shall act as independent contractors, and nothing herein shall at any time be construed to create the relationship of employer and employee, partnership, principal and agent, or joint venturer between Franchisor or its Affiliates and Franchisee. In addition, Franchisee shall have no right or authority to enter into any contract, commitment, or agreement, or to speak on behalf of, or incur any debt or obligation in the name or on behalf of, Franchisor or its Affiliates unless expressly authorized to do so in writing by Franchisor. Franchisee shall exercise full and complete control over, and have full responsibility for, its contracts, daily operations, labor relations, employment practices and policies, including but not limited to recruitment, selection, hiring, disciplining, firing, compensation, work rules and schedules of its employees. Further, Franchisor and Franchisee are not and do not intend to be partners, associates, or joint employers in any way, and Franchisor shall not be construed to be jointly liable for any of Franchisee's acts or omissions under any circumstances. Franchisor has no relationship with Franchisee's employees and Franchisee has no relationship with Franchisor's employees. Franchisee also agrees to communicate clearly with its employees in employment agreements, manuals, handbooks and other materials that Franchisee, and not Franchisor or its Affiliates, are the employer of all Hotel employees. During the Term, Franchisee shall at all times hold itself out to the public as an independent contractor that independently owns and operates the Hotel pursuant to a franchise agreement with Franchisor and to place notices of independent ownership on the forms, business cards, stationery, employment materials, advertising and other materials Franchisor requires from time to time.

17.2. **Indemnity.** Franchisee shall defend (using counsel acceptable to Franchisor), protect, indemnify and hold Franchisor, its Affiliates, their respective successors and assigns, and the officers, directors, owners, agents, representatives, and employees of each of them, past or present (the “**Indemnitees**”) harmless, to the fullest extent permitted by law, from and against any and all Losses (defined below) incurred in connection with any action, suit, proceeding, claim, demand, investigation, inquiry (formal or informal), or any settlement thereof (whether or not a formal proceeding or action has been instituted) which may arise out of, or in connection with, Franchisee’s ownership, construction, renovation, conversion, establishment or operation of the Hotel, the performance of Franchisee, its employees or agents under this Agreement including any allegation that Franchisor or another Indemnitee is a joint employer or otherwise responsible for Franchisee’s acts or omissions relating to Franchisee’s employees, any data breach of Franchisee’s IT System, or the default by Franchisee or its Owners of any representation or warranty herein, or the negligence (whether such negligence be sole, joint or concurrent, active or passive) or strict liability of any Indemnitee or any other party or parties in connection therewith. Notwithstanding the foregoing, this indemnity shall not apply to any liability arising from Franchisor’s gross negligence or willful misconduct, except to the extent joint liability is involved, in which event the indemnification provided herein shall extend to any finding of comparative or contributory negligence attributable to Franchisee, its Affiliates, Owners, officers, directors, employees or agents.

For purposes of this **Section 17.2 “Losses”** means any and all losses, expenses, obligations, diminutions in value, liabilities, damages (actual, consequential, or otherwise), and reasonable defense costs that an indemnified party incurs. For purposes of this definition, defense costs include accountants’, arbitrators’, attorneys’, and expert witness fees, costs of investigation and proof of facts, court costs, travel and living expenses, and other expenses of litigation, arbitration, or alternative dispute resolution, regardless of whether litigation, arbitration, or alternative dispute resolution is commenced.

Franchisor will have the right, through counsel of its choice, at Franchisee’s expense, to control the defense or response to any action to the extent such action affects the interests of Franchisor, and such undertaking by Franchisor will not, in any manner or form, diminish Franchisee’s obligations to Franchisor hereunder. Under no circumstances shall Indemnitees be required or obligated to seek recovery from third parties or otherwise mitigate their losses in order to maintain a claim against Franchisee. Such indemnity shall survive the termination or expiration of this Agreement.

17.3. **No Liability.** Franchisor and its Affiliates shall in no event be liable by reason of any act or omission of Franchisee in its construction, renovation, conversion, establishment or operation of the Hotel or its performance under this Agreement or for any claim or judgment arising therefrom against Franchisee or Franchisor or its Affiliates. Franchisee agrees and understands that Franchisor and its Affiliates shall not, nor shall they have the obligation to, indemnify or hold Franchisee harmless from and against any action or claim by any third party based upon Franchisor’s or Franchisor’s Affiliates’ exercise of any of its rights in accordance with the terms of this Agreement.

## **18. APPROVALS AND WAIVERS.**

18.1. **Franchisor Consent.** Whenever this Agreement requires the prior approval or consent of Franchisor, Franchisee shall make a timely written request to Franchisor (where no such time period is otherwise provided in the applicable section of this Agreement), and such approval or consent shall not be valid unless given in writing and signed by an authorized officer of Franchisor. Franchisor may, in its sole judgment, withhold its approval or consent to any such request unless otherwise provided herein.

18.2. **No Reliance.** Except for the obligations of Franchisor specifically set forth in this Agreement, Franchisor makes no warranties or guaranties. Franchisor assumes no liability or obligation to Franchisee by providing any waiver, approval, consent or suggestion to Franchisee in connection with this Agreement, or by reason of any delay or denial of any request therefor.

18.3. No Waiver. Franchisor will not be deemed to waive or impair any right, power or option this Agreement reserves (including Franchisor's right to demand exact compliance with every term, condition and covenant of this Agreement) because of any custom or practice at variance with the terms of this Agreement's terms; Franchisor's waiver of or failure to exercise any right, power or option, whether of the same, similar or different nature, with other Brand Hotel franchisees; or the existence of franchise agreements for other Brand Hotels which contain provisions different from those contained in this Agreement. Franchisor's waiver of any particular default of Franchisee shall not affect or impair Franchisor's rights with respect to any subsequent default of the same, similar or different nature; nor shall any delay, forbearance or omission of Franchisor to exercise any power or right arising out of any breach or default by Franchisee affect or impair Franchisor's rights with respect to such default, or Franchisor's right to declare any subsequent breach or default and to terminate this Agreement before the expiration of its Term. Subsequent acceptance by Franchisor or its Affiliates of any payments due to it hereunder shall not be deemed to be a waiver by Franchisor of any preceding default by Franchisee of any terms, covenants or conditions of this Agreement.

**19. NOTICES.**

All notices pursuant to this Agreement shall be in writing and shall be personally delivered; sent by electronic mail; mailed by registered or certified mail, return receipt requested; or dispatched by overnight delivery to the respective Parties at the following addresses, unless and until a different address has been designated by written notice to the other Party:

Notices to Franchisor:           NH HOTELS USA FRANCHISE INC.  
Santa Engracia, 120, 7th Floor, 28003  
Madrid, Spain  
Attention: \_\_\_\_\_  
Email: \_\_\_\_\_

With a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Email: \_\_\_\_\_

Notices to Franchisee: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Facsimile No.: \_\_\_\_\_  
Attention: \_\_\_\_\_

Notice shall be deemed to have been received as follows: by personal delivery – at the time of delivery; by facsimile or electronic mail (if confirmed by regular mail as set forth above) – at time of transmission; by overnight delivery service – on the next business day following the date on which the notice was given to the overnight delivery service; and by registered or certified mail, return receipt requested – three (3) days after the date of mailing.

**20. ENTIRE AGREEMENT.** This Agreement together with the exhibits is intended by Franchisor and Franchisee to be the final and binding expression of their agreement, contain all of the material terms agreed to, is a complete and exclusive statement of the terms thereof and supersede

all prior oral or written agreements, negotiations and representations, provided, however, that nothing in this or any related agreement is intended to disclaim the representations Franchisor made in the franchise disclosure document that Franchisor furnished to Franchisee. No representation, understanding or agreement, oral or written, have been made or relied upon in the making of this Agreement other than as specifically set forth herein. Unless otherwise provided in this Agreement, this Agreement and the exhibits may only be amended, modified, or supplemented by a writing signed by both Franchisor and Franchisee. Oral modification of this Agreement is not permitted, and Franchisee hereby waives any right to claim an oral modification of this Agreement.

## **21. SEVERABILITY AND CONSTRUCTION.**

21.1. Construction and Interpretation. The Parties agree that if any provision of this Agreement may be construed in two ways, one of which would render the provision illegal or otherwise voidable or unenforceable, and the other of which would render the provision valid and enforceable, such provision shall have the meaning which renders it valid and enforceable. In this Agreement, any reference: (a) to a section or exhibit is a reference to the section of or the exhibit to this Agreement; (b) a document in the agreed form is to a document in the form agreed by and initialed by or on behalf of each Party for the purposes of identification; (c) "**writing**" and "**written**" includes typing, printing, lithography, photography and other modes of representing or reproducing words in a legible and non-transitory form and includes faxes and electronic form; (d) the words "**include**", "**including**" and "**in particular**" are to be construed as being by way of illustration or emphasis only and are not to be construed so as to limit the generality of any words preceding them; (e) the words "**other**" and "**otherwise**" are not to be construed as being limited by any words preceding them. In this Agreement, unless the context requires otherwise: (i) words importing the plural include the singular and vice versa; (ii) words importing a gender include every gender; and (iii) if a period of time is specified and dates from a given day or the day of an act or event, it shall (unless otherwise stated) be calculated excluding that day and a reference to a time of day is unless otherwise specifically stated a reference to the time in New York. It is the intent of the Parties that the provisions of this Agreement be enforced to the fullest extent and should any court or other public agency determine that any provision herein is not enforceable as written in this Agreement, the provision shall be amended so that it is enforceable to the fullest extent permissible under the laws and public policies of the jurisdiction in which the enforcement is sought.

21.2. Severability. The provisions of this Agreement are severable, and this Agreement shall be interpreted and enforced as if all completely invalid or unenforceable provisions were not contained in the Agreement, and partially valid and enforceable provisions shall be enforced to the extent that they are valid and enforceable; provided, that if any court or other public agency determines that one or more provision is invalid, illegal or unenforceable, and such determination would, in the reasonable opinion of Franchisor, frustrate the purpose of this Agreement as determined by Franchisor, then Franchisor may terminate this Agreement.

21.3. No Third Party Beneficiary. Except as expressly provided in this Agreement, nothing in this Agreement is intended, nor shall be deemed, to confer upon any person or legal entity other than Franchisee, Franchisor or Franchisor's Affiliates and such of Franchisee's and Franchisor's respective successors and assigns as may be contemplated (and, as to Franchisee, permitted), any rights or remedies under or by reason of this Agreement.

## **22. DISPUTE RESOLUTION.**

22.1. Governing Law. All matters relating to arbitration will be governed by the Federal

Arbitration Act (9 U.S.C. §§ 1 et seq.). Except to the extent governed by the Federal Arbitration Act, the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Sections 1051 et seq.), or other federal law, this Agreement, the franchise, and all claims arising from the relationship between Franchisor and Franchisee will be governed by the laws of the state of New York, without regard to its conflict of laws rules, except that any New York law regulating the offer or sale of franchises or governing the relationship of a franchisor and its franchisee will not apply unless its jurisdictional requirements are met independently without reference to this subsection.

22.2. Informal Dispute Resolution. The Parties shall use reasonable efforts to try and resolve in an amicable manner any question or difference which may arise concerning the construction, meaning or effect of this Agreement and any dispute arising out of or in connection with this Agreement. If the matter in dispute cannot be resolved amicably by each Party's senior management within 30 days of notification of the matter in dispute by one Party to the other (a "**Dispute Notice**"), then the dispute shall be dealt with in accordance with Section 22.3.

22.3. Arbitration. Subject to Sections 22.2 and 22.4, any dispute arising out of or relating to this Agreement shall be settled by arbitration as follows:

22.3.1. each Party shall be entitled to serve upon the other Party written notice of its desire to settle the matter by binding arbitration. Within ten (10) days after the date of delivery of such notice, either Party may submit the dispute to the American Arbitration Association ("AAA") for binding arbitration under the then existing rule of the AAA, with such submission requesting a single arbitrator. Any arbitrator appointed or designated pursuant to this Section 22.3 shall possess significant professional experience in the luxury hotel business but shall not be an Affiliate of or a person who has a present or currently contemplated business or personal relationship, or has had any personal or business relationship at any time during the ten (10) years immediately preceding the submission to arbitration, with either Franchisee, any Affiliates or any of its or their Owners. The Parties may also provide the names of suggested arbitrators who possess the requisite qualifications for the purposes of supplementing any list of potential arbitrators. The arbitrator shall be instructed to apply the internal laws of the State of New York (without regard to conflict of laws principles) in resolving the subject dispute;

22.3.2. the decision of the arbitrator shall be made within 30 days of the close of the hearing with respect to the arbitration (or such longer time as may be agreed to, if necessary, which agreement shall not be unreasonably withheld) and the decision of such arbitrator when reduced to writing and signed by it shall be final, conclusive and binding upon the Parties hereto, and may be enforced in any court having jurisdiction;

22.3.3. the arbitration shall be held in New York, New York and all matters relating to arbitration will be governed by the Federal Arbitration Act (9 U.S.C. Sections 1 et seq.) and not by any state arbitration law. Notwithstanding the foregoing sentence, except for those procedures specifically set forth in this Section 22.3, including the application (to substantive issues) of the internal laws of the State of New York (without regard to conflict of laws principles), arbitration shall be conducted in accordance with the rules of the AAA in effect on the date thereof;

22.3.4. the arbitrator shall be directed to establish (i) a schedule for the conduct of the arbitration which shall yield a conclusion within 120 days following the appointment of the arbitrator and (ii) economic or procedural sanctions (which may include default judgment) for any Party the arbitrator determines has intentionally delayed the conduct of the proceedings;

22.3.5. the arbitrator shall determine the proportions of the expenses of such arbitration which each Party shall bear; provided, however, that each Party shall be responsible for its own

legal fees; and

22.3.6. arbitration will be conducted on an individual, not a class-wide, basis.

Notwithstanding anything contained in this Section 22.3, (i) either Franchisor or Franchisee shall be entitled to (A) commence legal proceedings seeking such mandatory, declaratory or injunctive relief as may be necessary to define or protect the rights and enforce the obligations contained herein pending the settlement of a dispute in accordance with the arbitration procedures set forth in this Section 22.3, or (B) commence legal proceedings involving the enforcement of an arbitration decision or award arising out of this Agreement, and (ii) no Party shall (A) be entitled to any default remedy or remedies until the conclusion of the arbitration process, or (B) join any arbitration proceeding arising out of this Agreement with any other arbitration proceeding.

22.4. Extraordinary Relief. Notwithstanding Sections 22.2 and 22.3, Franchisor may bring an action for injunctive or other extraordinary relief (including specific performance), in any court of competent jurisdiction, without first submitting such action to mediation or arbitration.

22.5. Jurisdiction and Venue. With respect to any claims, controversies or disputes which are not finally resolved through information dispute resolution or arbitration as provided above, Franchisor, Franchisee and Owners hereby irrevocably submit themselves to the jurisdiction of any forum or court, whether federal or state, within the judicial district in New York, New York and hereby waive all objections to personal jurisdiction for the purpose of carrying out this provision. Franchisee and Owners hereby agree that service of process may be made upon any of them in any proceeding relating to or arising out of this Agreement or the relationship created by this Agreement by any means allowed by New York law or federal law.

22.6. Non-Exclusive Remedies. No right or remedy conferred upon or reserved to Franchisor or Franchisee by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy provided herein or permitted by law or equity, but each shall be cumulative of every other right or remedy.

22.7. **JURY WAIVER.** **FRANCHISOR, FRANCHISEE AND ITS OWNERS IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF THEM AGAINST THE OTHER NOTWITHSTANDING ANY STATE OR FEDERAL CONSTITUTIONAL OR STATUTORY RIGHT AND HEREBY AGREE THAT ANY JUDICIAL PROCEEDING SHALL BE TRIED BEFORE THE COURT SITTING WITHOUT A JURY. FRANCHISEE AND ITS OWNERS FURTHER AGREE THAT ANY ACTIONS SUIT OR PROCEEDING SHALL BE CONDUCTED ON AN INDIVIDUAL BASIS, AND NOT AS PART OF A COMMON, CONSOLIDATED OR CLASS ACTION.**

22.8. **LIMITATIONS PERIOD.** **EXCEPT FOR CLAIMS BROUGHT BY FRANCHISOR WITH REGARD TO (1) ANY MISREPRESENTATION OR OMISSION MADE BY FRANCHISEE OR ANY OF ITS OWNERS, (2) FRANCHISEE'S OBLIGATIONS TO PROTECT FRANCHISOR'S CONFIDENTIAL INFORMATION, OR (3) FRANCHISEE'S OBLIGATIONS TO INDEMNIFY FRANCHISOR PURSUANT TO SECTION 17.2, ANY AND ALL CLAIMS AND ACTIONS ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE RELATIONSHIP OF FRANCHISEE AND FRANCHISOR, OR FRANCHISEE'S OPERATION OF THE HOTEL, BROUGHT BY EITHER PARTY HERETO AGAINST THE OTHER, WHETHER IN MEDIATION, ARBITRATION OR A JUDICIAL ACTION, SHALL BE COMMENCED WITHIN ONE (1) YEAR FROM THE OCCURRENCE OF THE FACTS GIVING RISE TO SUCH CLAIM OR ACTION, NOTWITHSTANDING ANY APPLICABLE STATUTE OF LIMITATIONS, OR SUCH CLAIM OR ACTION SHALL BE BARRED.**

22.9. Damages Waiver. Except with respect to obligations regarding use of the Proprietary Marks and other Intellectual Property Rights and Confidential Information, Franchisor and Franchisee (and its Owners) each waives, to the fullest extent permitted by law, any right to or claim for any punitive, exemplary or special damages against the other. Franchisee and each of its Owners also waive, to the fullest extent permitted by law, the right to recover consequential damages (including lost profits) for any claim directly or indirectly arising from or relating to this Agreement. Franchisor retains all other rights and remedies, including the right to obtain liquidated damages as provided in this Agreement, direct and general damages, compensatory and consequential damages, injunctive and extraordinary relief, and attorney fees and costs.

22.10. Enforcement Costs. In connection with any suit or proceeding, brought by Franchisor or its Affiliates or Franchisee to enforce any of their respective rights under this Agreement, the prevailing Party in such suit or proceeding shall be entitled to recover its reasonable attorney's fees and court costs incurred therein.

22.11. Business Judgment. Franchisee and its Owners acknowledge that various provisions of this Agreement specify certain matters that are within the sole discretion or judgment of Franchisor. If the exercise of Franchisor's sole discretion or judgment as to any such matter is subsequently challenged, the Parties to this Agreement (as well as Owners of Franchisee) agree that if a trier of fact finds that Franchisor relied on a business reason in the exercise of its sole judgment or discretion, then Franchisor's exercise of its discretion or judgment is to be viewed as a reasonable and proper exercise of such sole discretion or judgment, without regard to whether other reasons for its decision may exist and without regard to whether the trier of fact would independently accord the same weight to such business reason.

## **23. FRANCHISEE'S REPRESENTATIONS AND ACKNOWLEDGMENTS.**

### 23.1. Franchisee's Owners and Guarantors.

(a) Franchisee's Owners. Franchisee represents and warrants that: (a) Exhibit E completely and accurately identifies all Owners and describes their Ownership Interests (whether direct or indirect) in Franchisee; and (b) none of Franchisee's Owners is Specially Designated National or Blocked Person. Upon Franchisor's reasonable request, Franchisee agrees to provide Franchisor information about the identity of the Owners and their ownership interests (whether direct or indirect) in Franchisee from time to time using the forms and formats that Franchisor reasonably specifies.

(b) Guaranty. Franchisee must ensure that one or more of the Owners which Franchisor specifies as of the Effective Date signs Franchisor's Guaranty (the "**Guaranty**"), the current form of which is attached as Exhibit F.

23.2. Franchisee's Additional Acknowledgments. To induce Franchisor to sign this Agreement and grant Franchisee the rights under this Agreement, Franchisee represents, warrants and acknowledges that:

23.2.1. Franchisor's approval of the Approved Site is not a guarantee or warranty, express or implied, of the success or profitability of a Brand Hotel at that location.

23.2.2. all statements Franchisee has made and all materials (including ownership information and descriptions of Franchisee's and/or its Affiliates' ownership structure(s)) it has given Franchisor in acquiring the rights under this Agreement are accurate and complete and that Franchisee has made no misrepresentations or material omissions in obtaining those rights.

23.2.3. Franchisee is duly organized, validly existing and in good standing under the

laws of the jurisdiction of its formation, and Franchisee's execution and delivery of this Agreement and performance of its obligations hereunder (i) have been duly authorized by all necessary company action, (ii) do not and will not violate or result in a breach or default under any Applicable Law or any agreement to which Franchisee is a Party or by which it is bound, and (iii) do not require the consent of any third party that has not been obtained

23.2.4. In accordance with an exemption available under the Federal Trade Commission's Trade Regulation Rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising," 16 C.F.R. Section 436.8(a)(5)(ii), Franchisee, or its parent or any of its Affiliates, is an entity that has been in business for at least five (5) years and has a net worth of at least \$6,165,500 (or such other amount as is designated by the Federal Trade Commission).

23.3. Franchisee Acknowledgments in Certain States. The following representations, warranties and acknowledgments shall be made by and binding on Franchisee, unless this Agreement and/or the relationship between Franchisor and Franchisee is subject to state franchise registration and/or disclosure laws in California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, or Wisconsin.

23.3.1. Franchisee represents, warrants and acknowledges that it has independently investigated and evaluated the opportunity of investing in the hotel industry generally and specifically the Brand Hotel franchise opportunity, including the current and potential market conditions and competitive factors and risks, and recognizes that, like any other business, the nature of a Brand Hotel's business will evolve and change over time.

23.3.2. Franchisee represents, warrants and acknowledges that, except as expressly set forth in the franchise disclosure document that Franchisor has delivered to Franchisee or its representative, Franchisee has not received from Franchisor, and is not relying upon, and that Franchisor expressly disclaims making, any representation, warranty or guaranty, express or implied, as to the actual or potential volume, sales, income or profits of the Hotel or any other Brand Hotel, and any information Franchisee has acquired from other Brand Hotel owners, including information regarding their sales, profits or cash flows, is not information obtained from Franchisor, and Franchisor makes no representation about that information's accuracy.

23.3.3. Franchisee represents, warrants and acknowledges that it has no knowledge of any representations made about the Brand Hotel franchise opportunity by Franchisor, its Affiliates or any of their respective officers, directors, managers, owners or agents that are contrary to the statements made in Franchisor's franchise disclosure document or to the terms and conditions of this Agreement.

23.3.4. Franchisee represents, warrants and acknowledges that it is relying solely on Franchisor, and not on any Affiliate of Franchisor, with regard to Franchisor's financial and other obligations under this Agreement, and no employee or other person speaking on behalf of, or otherwise representing, Franchisor has made any statement or promise to the effect that Franchisor's Affiliates guarantee Franchisor's performance or financially back Franchisor.

23.4. No Waiver or Disclaimer of Reliance in Certain States. The following provision applies only to franchisees and franchises that are subject to state franchise registration/disclosure laws in California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, or Wisconsin:

No statement, questionnaire, or acknowledgment signed or agreed to by Franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state

franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by Franchisor, any franchise seller, or any other person acting on behalf of Franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

23.5. Survival. In addition to, and without limitation of, the terms of this Agreement that contemplate performance after the termination or expiration of this Agreement or the Transfer of Franchisee's interest herein, all of which are deemed to survive such termination, expiration or Transfer, the terms of Sections 8, 9, 10, 12, 15, 18, 20, 21, 23, and 24 shall survive the termination, expiration or transfer of this Agreement.

**[Signature Page Follows]**

IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be executed by its duly authorized representative as of the date first above written.

**FRANCHISEE**

\_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**FRANCHISOR**

**NH HOTELS USA FRANCHISE INC.**, a Delaware company

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**

**BASIC TERMS**

1. Hotel Address/Approved Site:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
2. Hotel Name: \_\_\_\_\_.
  
3. **Parking Areas (including access easements) at the Approved Site.** As described in the Introduction to the Franchise Agreement, the Approved Site where Franchisee will operate the Hotel includes all structures, facilities, appurtenances, FF&E, entrances, exits, and parking areas located on the Approved Site or any other real property that Franchisor approves for Hotel expansion, signage, or other facilities. The Hotel’s parking areas must comply with Franchisor’s Brand Standards, including the number of dedicated parking spaces that Franchisor requires at the Hotel. If Franchisor determines in its sole judgment that access to parking at the Hotel is inadequate, then Franchisor may require Franchisee to use best efforts to secure (and once secured, to maintain) one or more access easements across adjacent property to have the right to use driveways or drive aisles for vehicular ingress and egress. If Franchisee is not able to secure such access easements and Franchisor determines in its sole judgment that nearby parking spaces do not comply with Brand Standards, Franchisor may: (A) require Franchisee to secure additional parking spaces that will be used exclusively by Hotel guests, or (B) provide valet parking for vehicles of Hotel guests 24 hours a day, 7 days a week. Any parking alternatives proposed by Franchisee must be consistent with Franchisor’s Brand Standards and must be approved by Franchisor. For the avoidance of doubt, all Hotel parking spaces and areas will be considered part of the Hotel for purposes of insurance and indemnification.
  
4. Franchisee paid an “**Application Fee**” of \$\_\_\_\_\_ before signing this Agreement.
  
5. Opening Date: \_\_\_\_\_.
  
6. Expiration Date: \_\_\_\_\_.
  
7. The Hotel is (check the box):    new construction                      a conversion property
  
8. Guest Rooms: The Hotel shall have \_\_\_\_\_, guest rooms.
  
9. The approved Management Company is: \_\_\_\_\_.
  
10. The “**AOP Term**” (if any) is:  
\_\_\_\_\_.
  
11. The “**Area of Protection**” means the area located within the following boundaries:  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT B**

**CONVERSION ADDENDUM**

If Franchisee will convert the Hotel to a Brand Hotel, then Franchisee must upgrade and convert the Hotel in accordance with this Addendum:

## EXHIBIT B

### CONVERSION ADDENDUM

#### 1. INTRODUCTION.

Pursuant to Section 4.1 in the Franchise Agreement, Franchisee is signing this Conversion Addendum because Franchisee will convert the Hotel to a Brand Hotel. The following provisions are the conversion-specific terms that will apply to Franchisee's conversion renovation of the Hotel. All capitalized terms used but not otherwise defined in this Conversion Addendum have the meanings given to them in the Franchise Agreement:

#### 2. PROPERTY IMPROVEMENT PLAN.

Franchisee must convert, equip and furnish the Hotel in accordance with the PIP, which includes Franchisor's conversion renovation requirements for the Hotel. Franchisee must complete all such requirements by the Opening Date listed on Exhibit A (Basic Terms) to the Franchise Agreement, unless otherwise noted in the PIP with respect to a particular requirement. All renovations, furniture, fixtures and equipment must conform to Franchisor's then-current Brand Standards. If any material changes to the Hotel occur after the Effective Date of the Franchise Agreement, then Franchisor may modify the PIP to address such material changes.

#### 3. CONVERSION PROCESS AND TIMELINE.

3.1 Construction Start Date and Construction Costs. By \_\_\_\_\_, 20\_\_ (the "Construction Start Date"), Franchisee must: (1) obtain all required insurance; (2) obtain all financing commitments required under the PIP (if any); and (3) begin conversion-related construction. Franchisee will notify Franchisor in writing within 10 days after Franchisee begins construction. Upon Franchisor's request, Franchisee must provide to Franchisee evidence that Franchisee has satisfied the criteria above. Unless otherwise provided in the Franchise Agreement, Franchisee is responsible for the entire cost of renovating, equipping, supplying and furnishing the Hotel according to the PIP and the Brand Standards.

3.2 Opening Date and Extensions. Franchisee must timely complete the conversion renovation to Franchisor's satisfaction and must open the Hotel on the Opening Date designated in Exhibit A (Basic Terms) to the Franchise Agreement. Time is of the essence, but if Franchisee wants to extend the Construction Start Date or the Opening Date, Franchisee must do so in writing and provide the reasons for the requested extension. For the avoidance of doubt, if Franchisor agrees to extend the time for the Opening Date, then Franchisee will pay to Franchisor an extension fee of Five Thousand Dollars (\$5,000) for each three (3)-month extension, as described in Section 4.6 in the Franchise Agreement.

3.3 Permits, Certifications and Compliance. Franchisee will obtain all permits and certifications required for the renovation and operation of the Hotel, including zoning, access, sign, building permits and fire requirements, and if requested, will certify that it has obtained all such permits and certifications. Franchisee will ensure that the Hotel's renovation construction complies with Applicable Law, Brand Standards and the approved Concept Design Proposal and Room Mock-up.

3.4 Inspections. During conversion renovation, and pursuant to Section 4.7 in the Franchise Agreement, Franchisor's representatives may visit the job site at any time to inspect the renovation of the Hotel, and Franchisee must (and must ensure that its contractors and subcontractors will) fully cooperate with any such inspection activities. Upon request, Franchisee will submit photos and documents showing the progress of renovation to Franchisor. If Franchisor notifies Franchisee of any deficiencies, and Franchisee will promptly correct such items.

4. **OPENING.**

Upon Franchisee's completion of the Hotel's conversion renovation, and before Franchisee may open the Hotel for Business, Franchisee must comply with all pre-opening requirements in the Franchise Agreement, including providing to Franchisor written notice that Franchisee has completed conversion renovation in accordance with the PIP, Franchisor's Brand Standards, approved Concept Design Proposal and approved Room Mock-Up. In addition, Franchisor may require that Franchisee provide to Franchisor any of the following before permitting Franchisee to open the Hotel:

4.1 An architect's certification that the Hotel has been renovated in accordance with the PIP;

4.2 A copy of the certificate of occupancy for the Hotel;

4.3 A certificate from Franchisee's licensed architect, engineer or recognized expert consultant that the Hotel has been renovated in accordance with the Americans with Disabilities Act and all other related or similar state and local laws, regulations, and other requirements governing public accommodations for persons with disabilities in effect at the time (subject to any "historic hotel" designations); and

4.4 Certificates of insurance.

Franchisee may open the Hotel for business as a Brand Hotel (and install the outside signage) only after Franchisor has conducted the on-site visits pursuant to Sections 4.6 and 4.7 of the Franchise Agreement and only after Franchisor authorizes Franchisee to do so in writing pursuant to Section 4.6 in the Franchise Agreement.

IN WITNESS WHEREOF, each of the hereto has caused this Conversion Addendum to be executed by its duly authorized representative as of \_\_\_\_\_, 20\_\_.

**FRANCHISEE**

\_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**FRANCHISOR**

**NH HOTELS USA FRANCHISE INC.**, a Delaware company

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT C

### TECHNICAL SERVICES

The following are the Technical Services that Franchisor provides to franchisees as of the Effective Date, which are subject to change from time to time.

#### **Fees for the Pre-Opening Technical Services**

Franchisee will pay to Franchisor a non-refundable fee in an amount per guest room that is designated by Franchisor and which will vary depending on the scope of pre-opening Technical Services to be provided by Franchisor. As of the Effective Date, Franchisor anticipates that this amount will be \$1,000 per guest room; provided, however, that Franchisor may modify this amount based on the scope of the pre-opening Technical Services that Franchisor provides to Franchisee and the Hotel.

#### **Scope for the Pre-Opening Technical Services**

##### 1.2.1. Assistance during Pre-Construction Stage:

- ✓ Assistance in the outline of the Hotel's design and layout in order to ensure it complies, to the extent legally possible, to the Brand Standards. For the sake of clarity, Franchisee will be the sole responsible to make the Hotel's design, layout and final project comply with US laws and regulations and Franchisee will hold Franchisor harmless of any damages arising from the inadequacy/non-compliance of the Hotel and the Hotel's design, layout and final project with the US laws and regulations.
- ✓ Assistance in the study, the analysis and recommendations for the use of the finishing materials proposed for the Hotel.
- ✓ Assistance in the study, the analysis and recommendations for the definition of the interior design of the Hotel, including its rooms/apartments on the basis of a specific project for a mock-up room.
- ✓ Assistance in the selection of those consultants to be hired by the Franchisee for the execution of the Project and the Hotel This assistance shall limit to give NH's opinion (if known) of the convenience to hire any consultant, taking the Franchisee such opinion as a mere opinion.
- ✓ Assistance in the study, the analysis and schemes implementation of technical systems (HVAC, water, electricity, gas and other special facilities) in accordance with the Brand Standards.
- ✓ Provision of standard recommendations as regards the technical facilities of the Hotel to conform, to the extent legally possible, with the Brand Standards.

##### 1.2.2. Assistance during Construction Stage:

- ✓ Assistance in the context of the execution of the refurbishment works, in accordance with the Project as approved by Franchisor at the end of the pre-construction.
- ✓ Assistance and recommendations at the time of the pre-acceptance, acceptance and delivery of the works, including snagging lists, handover documents index and systems set up assistance of the Hotel.
- ✓ Assistance and advise in the preparation of the snagging list (this referring to the state of works and execution of the Hotel prior to the handover and includes also FF&E state, fit out state, installations state and function, and other aspects of the Hotel that affect (from a technical point of view only) the ability to open the Hotel and operate the Hotel according to the Franchise Agreement) but only with regards to matters dealing with (i) compliance of the Brand Standards and (ii) matters that

- may impact the operation of the Hotel, both only from a technical point of view.
- ✓ Assistance for the discharge of the reserves and preparation of the reports on the discharge of the reserves.
  - ✓ Inform promptly and in writing the Owner's technical representative in case of defects and non-compliances of any aspect of the Project or the Hotel with the Brand Standards, detected in relation to technical choices, supplies and works submitted for validation to the Parties or otherwise emerged during the visit at the Hotel by Franchisor technical representatives with indication of the specific aspect that does not meet such requirements and assist the Franchisee in selecting the best solution.

### 1.2.3. Exclusions:

All activities not included in Sections 1.2.1 and 1.2.2 is out of the scope of services to be provided by Franchisor to Franchisee, in particular and without limitation:

- ✗ Works Direction.
- ✗ Health and Safety coordination and consultancy.
- ✗ Activities for the obtainment of authorizations, licenses or permits necessary for the execution of the refurbishment works as per the Project.
- ✗ Legal advisory and assistance.
- ✗ Regulatory consultancy.
- ✗ Project Development (as defined from the construction and technical point of view)
- ✗ Project Management
- ✗ Permits and licenses management.

The exclusions will be tasked – to the extent required - to external advisors or external teams to be contracted by the Franchisee, aside this Technical Services.

## EXHIBIT D

### INSURANCE REQUIREMENTS

The following are Franchisor's insurance requirements as of the Effective Date, which are subject to change from time to time. At all times during the Term of the Agreement, Franchisee must maintain Franchisor's then-current insurance requirements, as those requirements may be updated from time to time by Franchisor and which may differ from those set forth in this Exhibit D.

Franchisee undertakes to contract and maintain in force throughout the term of the Agreement, one or more insurance companies of the first order -to the entire satisfaction of Franchisor, the appropriate insurance policies to cover the risks inherent to the activity described in this Agreement for the concepts and amounts indicated below:

1. All Risk Policy for Property Damages and Business Interruption.
2. Civil liability insurance.
3. Compulsory life insurance for employees occupational accident insurance and/or any other Policy required by law.
4. Any other insurance required according to the local legislation in each geography.

A copy of the policies and proof of payment must be delivered to Franchisor before the opening of the Hotel and with each renewal of the insurance contract.

#### Material Damage Insurance

Franchisee must, at its cost, obtain (and maintain) a All Risk damage insurance policy (the "**Material Damage Insurance**") to guarantee and cover: (i) the damages and material losses suffered in the Hotel for all risks that may affect it and that is not usually specifically excluded from this type of policies, according to the uses of commerce in the insurance sector for this type of economic activities; and (ii) the consequent loss of profit or loss of profits.

The Material Damage Insurance policy must cover the building that integrates the Hotel, its facilities, dependencies, furniture, machinery and other elements affected by the Hotel operation described in the Agreement. The Franchisee is responsible of updating the property damages and business interruption figures.

The Material Damage Insurance Policy will be based on an all-risk basis and will include, additionally and at least, the damages caused by:

1. Fire.
2. Electrical damage from abnormal currents, short circuits, etc.
3. Internal breakdown of machinery and electronic equipment.
4. Extraordinary and catastrophic risks.
5. Expenses derived from a loss such as:
  - i. Extinction.
  - ii. Debris removal and demolition.
  - iii. Replacement of files and documents.
  - iv. Professional fees.

- v. Obtaining permits and licenses.
- 6. Loss of profits, resulting from the total or partial interruption or disturbance of the operation of the Hotel as a result of any material damage covered in the Material Damage Insurance policy.

The insured value in the Material Damage Insurance will be the replacement value to new, reflecting the cost of reconstruction, replacement or repair of the insured goods in new conditions.

In case of losses that do not affect the continuity of the operation of the Hotel, Franchisee expressly undertakes to allocate the compensation received by the insurance company, to the repair, reconstruction or replacement of the goods affected by the accident.

In the event that the damages prevent the continuous operation of the Hotel, the time it takes to rebuild the Hotel will not be counted for the purposes of the Term of the Agreement. If, on the other hand, Franchisee does not allocate the compensation to the reconstruction of the property, Franchisor has the right (but not the obligation) to terminate the Agreement in addition to its other rights and remedies at law and equity under this agreement and under Applicable Law.

Civil Liability Insurance

Franchise must obtain (and maintain) a civil liability insurance policy (the "**Civil Liability Insurance**") to cover the risks inherent in the operation of the Hotel and, in particular, to cover any damage or harm caused to a third parties occurring during the validity and development of the activity object of the Agreement (including those agreements signed by Franchisee with suppliers for specific work or service).

The Civil Liability Insurance must guarantee the payment of the indemnities derived from said damages and for which the insured is civilly liable, according to the legal regulations in force in the field of contractual and extracontractual liability as a result of the ownership or possession of real estate assets, exploitation of the hotel activity for personal injuries, materials and their and any damages thereto derived from the acts and omissions that, not being among the "excluded risks" according to the uses of commerce in the insurance sector for this type of economic activities, have occurred and are claimed during the term of the policy or up to 3 (three) years after its expiration date. The Civil Liability Insurance must cover Liquor liability.

In the Civil Liability Insurance policy, Franchisor and its Affiliates must be named as the preferred additional insured (endorsement) with express mention that Franchisor will not lose its third-party status, and said policy must contain, at least, the following guarantees and limits:

General Liability, including Exploitation and Real Estate owner liability	USD 5,000,000 per claim
Products and Finished Goods liability, including food poisoning	USD 5,000,000 per claim, per year
Tenants Liability	USD 5,000,000 per claim

Subsidiary civil liability for contractors and subcontractors	USD 5,000,000 per claim
Cross Liability	USD 5,000,000 per claim, sublimit per victim USD 500,000
Employers Liability	USD 5,000,000 per claim, USD 500,000 per victim
Liquor Liability (for UK, USA and Canadian citizens)	USD 1,000,000 per claim per year
Sudden and Accidental pollution	USD 5,000,000 per claim per year
Theft and spoliation (including cash from guests)	USD 40,000 per claim per year

Accident and Workers Compensation Insurance

Franchisee must obtain (and maintain) workers compensation insurance relating to its employees that provides coverage against accidents at work and occupational diseases, as well as compulsory life insurance required by current regulations, if any. The insurance policy must cover franchisee’s direct employees, as well as for those who work in the Hotel through any labor arrangement (including any third parties or subcontractors who perform work, repair or remodeling services at the Hotel.

Other Insurance

Franchisee will obtain (and maintain) any other insurance required by Applicable Law.

**EXHIBIT E**

**FRANCHISEE'S OWNERSHIP**

The following list identifies all owners of Franchisee:

<b>Owner</b>	<b>Percentage Interest in Franchisee</b>
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

**EXHIBIT F**  
**GUARANTY**

## GUARANTY

This Guaranty (“**Guaranty**”) is executed as of \_\_\_\_\_ 20\_\_ (“**Effective Date**”) by the undersigned party or parties (each a “**Guarantor**”), for the benefit of \_\_\_\_\_, a \_\_\_\_\_ formed under the laws of \_\_\_\_\_ (“**Franchisor**”).

In consideration of and as an inducement to Franchisor to execute the Franchise Agreement dated as of the date hereof (as such agreement may be amended, the “**Franchise Agreement**”), between Franchisor and \_\_\_\_\_, a \_\_\_\_\_ (“**Franchisee**”), for the hotel located at \_\_\_\_\_ (the “**Hotel**”), Guarantor agrees to the below. In addition, Guarantor is either an owner (whether direct or indirect) of Franchisee or otherwise has a direct or indirect relationship with Franchisee or its affiliates, Guarantor will benefit significantly from Franchisor’s entering into the Franchise Agreement with Franchisee, and Franchisor will not enter into the Franchise Agreement unless each of the undersigned agrees to sign and comply with the following terms of this Guaranty:

1. **Unconditional Guaranty.** Guarantor unconditionally guarantees that all of Franchisee’s obligations under the Franchise Agreement shall be paid and performed in full. Upon failure by Franchisee to fully pay or perform and upon notice from Franchisor, Guarantor shall promptly make such payment and perform each obligation required by Franchisee under the Franchise Agreement. The modification, release or amendment by Franchisor of any indebtedness or obligation of Franchisee, or Franchisor’s decision to settle, adjust or compromise any claim against Franchisee without notice to Guarantor, and any such action will not affect the obligations of Guarantor under this Guaranty.

2. **Waiver of Notices.** Guarantor waives (i) notice of any amendment of the Franchise Agreement and (ii) notice of demand for payment or performance by Franchisee. Guarantor’s guarantee applies to any extension or renewal of the Franchise Agreement. Guarantor unconditionally and irrevocably waives notice of acceptance of this Guaranty, presentment, demand, diligence, protest and dishonor or of any other notice to which Guarantor otherwise might be entitled under applicable law.

3. **Obligations of Guarantor.**

A. *No Limitations.* The obligations of Guarantor under this Guaranty will not be reduced, limited, terminated, discharged, impaired or otherwise affected by (i) Franchisee’s failure to pay a fee or provide consideration to Guarantor for the issuance of this Guaranty; (ii) the occurrence or continuance of a default under the Franchise Agreement; (iii) any assignment of the Franchise Agreement; (iv) any amendment, waiver, consent or other action taken related to the Franchise Agreement, including any discounts or extensions of time for payment of any amounts due under the Franchise Agreement or extensions of time for the performance of any obligation of Franchisee under the Franchise Agreement; (v) the voluntary or involuntary liquidation, sale or other disposition of all or any portion of Franchisee’s assets, or the receivership, insolvency, bankruptcy, reorganization or similar proceedings affecting Franchisee or its assets or the release or discharge of Franchisee from any of its obligations under the Franchise Agreement; or (vi) any

change of circumstances, whether or not foreseeable, and whether or not any such change could affect the risk of Guarantor.

B. *Changes to the Franchise Agreement.* Any modifications, amendments, waivers or consents to the Franchise Agreement may be agreed to or granted without the approval, notice or consent of Guarantor.

4. **Payment and Performance.** This Guaranty constitutes a guaranty of payment and performance and not of collection. Guarantor waives any right to require Franchisor to proceed, by way of set-off or otherwise, against (i) Franchisee; (ii) any assets of Franchisee; (iii) any assets of Franchisee held by any person or entity as security; or (iv) any other guarantor.

5. **Preferences or Other Return Payments.** This Guaranty will continue to be effective or be reinstated, as the case may be, if at any time payment under the Franchise Agreement is rescinded or must otherwise be restored or returned by Franchisor due to the insolvency, bankruptcy or reorganization of Franchisee or Guarantor, all as though such payment had never been made.

6. **Notices.** All notices and other communications will be: (i) in writing; (ii) delivered by hand with receipt, or by courier service with tracking capability; and (iii) addressed as provided below or at any other address designated in writing by Guarantor. Any notice will be deemed received (i) when delivery is received or first refused, if delivered by hand or (ii) one day after posting of such notice, if sent via overnight courier.

7. **Joint and Several Liability.** If more than one Guarantor has executed this Guaranty, the liability of each Guarantor will be joint, several and primary.

8. **Death of Guarantor.** On the death of any individual Guarantor, the estate of such Guarantor will be bound by this Guaranty but only for defaults and obligations existing at the time of death. In such event, the obligations of any other Guarantors will continue in full force and effect.

9. **Existence; Authorization; Prior Representations.**

A. *Existence.* Each Guarantor that is not an individual represents and warrants that it: (i) is duly formed, validly existing and in good standing under the laws of the jurisdiction of its formation and (ii) has, and will continue to have, the ability to perform its obligations under this Guaranty.

B. *Authorization.* Each Guarantor represents and warrants that the execution and delivery of this Guaranty and the performance of its obligations under this Guaranty: (i) have been duly authorized; (ii) do not and will not violate, contravene or result in a default or breach of (a) any applicable law, (b) its governing documents or (c) any agreement, commitment or restriction binding on the relevant party; and (iii) do not require any consent that has not been properly obtained by the relevant party.

C. *Restricted Persons.* Guarantor represents and warrants, and will ensure throughout the Term of the Franchise Agreement, that neither Guarantor nor any of its funding sources is, either by name or an alias, pseudonym or nickname, on the lists of “**Specially Designated Nationals**” or

“**Blocked Persons**” maintained by the U.S. Treasury Department’s Office of Foreign Assets Control.

10. **Governing Law; Arbitration; Jurisdiction.**

A. *Governing Law.* This Guaranty will be construed under and governed by New York law, which law will prevail if there is any conflict of law.

B. *Arbitration.* Except as otherwise agreed in this Guaranty or in the Franchise Agreement, or actions for injunctive or other equitable relief under the Franchise Agreement, any disagreement, controversy, or claim relating to or arising out of this Guaranty, the relationship created by this Guaranty, or the enforceability of this Guaranty, including any question regarding its existence, validity, legality or termination, and any claim regarding a breach or enforcement of this Guaranty, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in accordance with the Rules of Arbitration of the AAA (“**Arbitration Rules**”). The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be New York, New York, United States.

11. **Costs of Enforcement.** Guarantor agrees to pay all costs, including reasonable legal fees, incurred by Franchisor and its Affiliates to enforce or protect any rights or to collect any amounts due under this Guaranty.

12. **WAIVER OF PUNITIVE DAMAGES.** EACH OF GUARANTOR AND, BY ACCEPTANCE OF THIS GUARANTY, FRANCHISOR ABSOLUTELY, IRREVOCABLY AND UNCONDITIONALLY WAIVES THE RIGHT TO CLAIM OR RECEIVE PUNITIVE DAMAGES IN ANY DISPUTE RELATED TO THIS GUARANTY, THE RELATIONSHIP OF THE PARTIES OR ANY ACTIONS OR OMISSIONS IN CONNECTION WITH ANY OF THE ABOVE, OTHER THAN FRANCHISOR’S RIGHTS AND REMEDIES RELATED TO FRANCHISOR’S INTELLECTUAL PROPERTY.

13. **WAIVER OF JURY TRIAL.** EACH OF GUARANTOR AND, BY ACCEPTANCE OF THIS GUARANTY, FRANCHISOR ABSOLUTELY, IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY DISPUTE RELATED TO THIS GUARANTY, THE RELATIONSHIP OF THE PARTIES OR ANY ACTIONS OR OMISSIONS IN CONNECTION WITH THE ABOVE.

14. **Counterparts.** This Guaranty may be executed in any number of counterparts, each of which will be deemed an original and all of which constitute one and the same instrument. Delivery of an electronic signature or an executed signature page by electronic transmission is as effective as delivery of an original signed counterpart. Guarantor waives any defenses to the enforceability of the terms of this Guaranty based on the foregoing forms of signature.

15. **Definitions.** All capitalized terms not defined in this Guaranty have the meaning stated in the Franchise Agreement.

16. **Waiver.** Franchisor’s failure to exercise any right or to insist on compliance by Guarantor with any provision of this Guaranty will not constitute a waiver of Franchisor’s right to demand later full compliance with any provision of this Guaranty.

17. **Amendments.** This Guaranty may only be amended in a written document that has been duly executed by Guarantor and acknowledged and agreed to by Franchisor, and may not be amended by

conduct manifesting assent, and each of Franchisor and Guarantor is put on notice that any individual purporting to amend this Guaranty by conduct manifesting assent is not authorized to do so.

18. **Survival.** The provisions of Sections 1, 7, 10, 11, 12 and 13 will survive the expiration or termination of the Franchise Agreement.

**IN WITNESS WHEREOF**, each Guarantor has executed this Guaranty, under seal, as of the Effective Date.

**GUARANTORS:**

---

---

---

---

**EXHIBIT B-3**  
**STATEMENT OF SERVICES AGREEMENT**  
**(NH DISCOVERY LOYALTY PROGRAM)**

## GHA STATEMENT OF SERVICES

This Statement of Services summarises the terms of the Agreement signed on the 28 February 2021 between GHA Loyalty DMCC (“GHA”) and NH Hotel Group SA (“Member”) that applies to all Participating Hotels in respect of the outsourced loyalty services being provided by GHA to all of Member's branded hotels (the “GHA Agreements”). By signing this Statement of Services in respect of [name of specific managed or franchised hotel], [name of legal entity operating or owning the hotel which is the counterparty in NH's management or franchise agreement] (the “Hotel”) adheres to the GHA Agreements (and the modifications that may be agreed between NH and GHA), and agrees to pay GHA the amount for the services according to the GHA Agreements and summarized below. This Statement of Services is a summary document which does not replace the GHA Agreements; in case of a discrepancy the terms of the GHA Agreements shall prevail.

### 1. LOYALTY PROGRAMME

#### 1.1. The loyalty commissions will be invoiced monthly to the Hotel as follows:

Type of Stay	Applicable Loyalty Commission (“Fees”) for revenues on folio
Enrolment Stay:	<b>USD 0.00</b>
<u>“Same Hotel”, “Intra-Brand” or “Intra-Group” Stay</u> Stay at the Hotel of a Participant who was enrolled into the loyalty programme by any hotel that is part of NH Hotel Group or Minor Group, or directly with NH Hotel Group or Minor Group	<b>2.0%</b> of Qualified Rooms Revenue generated during the relevant stay.  <b>Plus</b>  <b>1.5%</b> of Qualified Non-Rooms Revenue generated during the stay
<u>Cross-Brand Stay:</u> All other stays at the Hotel of a Participant (for example stays by Participants who enrolled into the loyalty programme directly with GHA or with another member brand in the Global Hotel Alliance that is not part of the NH Hotel Group or the Minor Group).	<b>10.0%</b> of Qualified Rooms Revenue generated during the relevant stay (reduced to <b>5%</b> where the Programme Participant has made two previous stays in any of NH's participating hotels)  <b>Plus</b>  <b>1.5%</b> of Qualified Non-Rooms Revenue generated during the stay
	Applicable Loyalty Commission (“Fees”) for revenues not on folio
Loyalty Commission payable when a Programme Participant spends money at the Hotel in <b>non-rooms revenue</b> categories even if they are not staying at the Hotel, regardless the type of stay or booking channel.	From the launch of this phase of the loyalty programme, <b>1.5%</b> of Qualified Non-Rooms Revenue

**Notes:**

- *Folio definition: an account associated with a single hotel guest. All transactions between the hotel and the guest are recorded into the guest folio. Certain rate types and channels are excluded from Qualified Rooms Revenue and from Qualified Non-rooms Revenue, as determined by GHA from time to time.*
- *No loyalty fees will be charged to the Hotel for the portion of a transaction that is paid for using DISCOVERY Dollars.*
- *Where the stay of a Programme Participant exceeds 30 nights, loyalty commission will only be charged on the first 30 nights of that stay.*
- *These fees will be invoiced on a monthly basis. GHA will provide the Hotel with direct online access to backup data showing every eligible stay at the Hotel by a Programme Participant each month and the applicable billing category.*
- *Active Enrolment: Hotel will actively solicit the enrolment of new Programme Participants and use reasonable endeavours to meet the minimum enrolment target of 12 new participants per calendar year per total number of rooms.*
- *Schedule A attached shows the benefits to be provided to any Programme Participants on eligible stays and other aspects of the Loyalty Programme. Hotel shall provide to all Programme Participants the full benefits for which the respective Programme Participant qualifies based on its membership tier, irrespective of the rate paid by such Programme Participant. Such benefits shall be provided by the Hotel at its own cost. The current benefits that apply with respect to each membership tier are set forth in Schedule A and may be revised by GHA from time to time, provided that any such revisions are applied to substantially all of the members of Global Hotel Alliance.*

## **1.2. Reimbursement of "DISCOVERY Dollars" redeemed at the Hotel**

The reward currency of the loyalty programme is called "DISCOVERY Dollars". These DISCOVERY Dollars have a face value of USD1.00 each and can be redeemed by any Programme Participants against qualifying expenditure in the Hotel, reducing as a discount the amount they owe the Hotel by the local currency equivalent of the face value of USD1.00 per DISCOVERY Dollar.

NH may annually nominate (that will apply to all its Participating Hotels) the basis on which it is to be reimbursed by GHA for redemptions of DISCOVERY Reward Currency at the Hotel, between the reimbursement options for redemption set forth in Schedule C. The Hotel will notify GHA whenever a DISCOVERY Dollar has been redeemed in a transaction and GHA will then provide a credit back to the Hotel, in accordance with the applicable reimbursement option of Schedule C nominated by NH. Reimbursement amounts are credited by issuing a credit note to the Hotel, which they can use to offset any outstanding balance with GHA.

Where the Hotel has agreed with NH that it will sponsor a promotion involving the issuance of extra DISCOVERY Dollars ("Promotional D\$") to guests and these Promotional D\$ are then redeemed at any hotel, GHA will invoice NH to recover the cost of the Promotional D\$ reimbursement amount paid by GHA to the Hotel and NH may, in turn, invoice the Hotel for that reimbursement amount relating to these Promotional D\$

In the case of a transaction where a Program Participant redeems DISCOVERY Rewards Currency against a folio or invoice that contains both Qualified Rooms Revenue and Qualified Non-rooms Revenue, the Rewards Payment shall be deemed to reduce Qualified Rooms Revenue and Qualified Non-rooms Revenue proportionately to their contribution to the total of Qualified Rooms Revenue plus Qualified Non-rooms Revenue on that folio or invoice (so that, for example, where the Qualified Rooms Revenue is 70% of total folio then the reduction in Qualified Rooms Revenue attributable to the Rewards Payment shall be 70% of the total amount of the Rewards Payment and the reduction in Qualified Non-rooms Revenue attributable to the Rewards Payment shall be 30% of the total amount of the Rewards Payment).

For 2023, reimbursements will be made on the Flat Reimbursement Basis. Any changes into the basis of the reimbursement shall be communicated By NH Hotel Group

## 2. GHA MEMBERSHIP SERVICES

### 2.1. Loyalty Services

GHA will provide necessary services to manage the loyalty profiles (current and future) in the DISCOVERY programme, the tier upgrade and DISCOVERY Dollars earning and redemption systems in all hotels in the alliance.

### 2.2. Online distribution

Reservations from ghadiscovery.com and other GHA websites will be charged at **USD 2.00** per confirmed reservation. Invoiced on a monthly basis following stay check out. GHA will provide the Hotel with direct online access to backup data showing all reservation charges for the month.

### 2.3. Other Membership Services

Other Membership Services Schedule B attached (eg corporate group introductions) will only be supplied and charged where the terms of these are agreed in advance in writing between the Hotel and GHA.

The Membership Services may be modified from time to time (scope, charges, costs, terms, add/discontinue), provided that any such changes are applied to substantially all of the members of Global Hotel Alliance

## 3. PAYMENT TERMS FOR MEMBERSHIP SERVICES AND LOYALTY SERVICES

- 3.1. Within 10 days after the end of each calendar month, GHA shall submit a Debit memo to Hotel summarized tax invoices in relation to the itemized statements referred above. Apart from the Debit Memo Tax Invoices mentioned above, GHA will issue a monthly credit memo tax invoice, with a detailed statement supporting annex as refer for the Debit Memo Tax Invoice, related to those DISCOVERY Rewards Currency redeemed by Customers in the Hotel during that period.
- 3.2. The Hotel agrees to submit any undisputable payment for the Fees to GHA within forty-five (45) days of the date of the invoice. Should any amount be outstanding beyond this date, GHA reserves the right to charge interest to the Hotel on late payments at an interest rate of 5% per annum, in accordance with the terms of GHA's contract with the NH. Where a valid invoice has not been settled within ninety (90) days of the date of the valid invoice, GHA may suspend all services to the Hotel, which may include removing the Hotel from GHA's distribution channels and suspending the Hotel's participation in the Loyalty Programme on written notice of 30 days, until full payment is made to GHA by the Hotel.
- 3.3. All amounts payable to GHA under this Agreement shall be paid by wire transfer to the bank account designated by GHA at the bottom of each invoice (or such other bank account as GHA shall nominate) in immediately available funds in United States Dollars (converted at the exchange rate in effect on the day after the last day of the period to which they apply to the extent calculated on the basis of any currency other than United States Dollars).
- 3.4. GHA may apply an invoicing fee of USD 60.00 per invoice, in case of payment delay.

## 4. TERMINATION

- 4.1. This Statement of Services will be immediately terminated in any case of termination of the GHA Agreements.
- 4.2. In addition, this Statement of Services can be terminated by **[ ]**, with immediate effects, in case the Hotel is no longer part of the NH Hotel Group, S.A.

**Signatures:**

**GHA LOYALTY DMCC**

---

*Duly Authorised representative of GHA Loyalty DMCC*

DATE

**NH HOTEL GROUP, SA:**

---

*Duly Authorised representative of NH HOTEL GROUP SA*

DATE

**THE HOTEL**

Trading Name: [insert trading name of the Hotel]

Trading Address: [insert address of the hotel]

Legal entity name: [insert legal entity owning or operating the hotel]

Full address: [insert office address of legal entity]

*Duly Authorised representative of legal entity of the Hotel*

DATE

## STATEMENT OF SERVICES SCHEDULE A

TIER QUALIFICATION CRITERIA AND STANDARD PROGRAMME BENEFITS

*Note: Tiers, Criteria and Benefits are subject to change*

	BENEFITS	TIER 1 Entry Level	TIER 2	TIER 3	TIER 4	TIER 5
						UNPUBLISHED (by invitation VIP)
Tier Qualification Criteria	Room Nights/ Stays	Enrol	2 stays	10 nights	30 nights	Surprise (ca 100)
	Revenue \$ (eligible spend)	Enrol	\$1,000	\$5,000	\$15,000	Surprise (ca \$25K)
	Brands	-	-	2	3	Surprise (5)
Instant Savings	Member Rates Discount 5/10%+ (optional)	✓	✓	✓	✓	✓
	Special Offers / Pre-sale	✓	✓	✓	✓	✓
Reward Currency/ DISCOVERY DOLLARS	<b>EARN:</b>					
	Earn on Eligible Spend	4%	5%	6%	7%	7%
	Bonus Currency (e.g. promotions, social, app)	✓	✓	✓	✓	✓
	Currency Expiry Months	6	18	24	24	24
	<b>REDEEM:</b>					
	Room	✓	✓	✓	✓	✓
	Eligible Outlets (F&B, Spa)	✓	✓	✓	✓	✓
	Local Experiences	✓	✓	✓	✓	✓
	Transfer / Gift	✓	✓	✓	✓	✓
	Donate	✓	✓	✓	✓	✓

	<b>BENEFITS</b>	<b>TIER 1</b>	<b>TIER 2</b>	<b>TIER 3</b>	<b>TIER 4</b>	<b>TIER 5</b> UNPUBLISHED (by invitation VIP)
<b>Stay Benefits (Standard)</b>	Complimentary WiFi Early check-in Late check-out Guaranteed room availability 48h prior Upgrade subject to availability Double upgrade subject to availability Suite upgrade subject to availability	✓	✓	✓	✓ 11am 4pm	✓ 10am 6pm
<b>Local Brand Benefits (Additional)</b>	Varies by hotel (examples: premium WiFi, welcome amenity, express check-in, keyless entry, morning beverage, laundry, F&B discount, airport transfer, free breakfast, butler service)		Optional	✓	✓✓	✓✓
<b>Service Benefits</b>	Share your status <small>(share with one member)</small> VIP Customer Service Live Local Access & Events	✓	✓	✓	✓ ✓ ✓	Share Tier 4 ✓ ✓

Notes:

- DISCOVERY member will only earn reward currency and be credited for tier qualification in respect of the first 30 nights of an extended stay
- Early check-in, late check-out and guaranteed rooms are all subject to availability.
- No earning on the part of folio settled with DISCOVERY Rewards Currency.
- Redemptions only against amounts on folio/invoice (therefore no redemption at check-out against pre-paid amounts)

**STATEMENT OF SERVICES SCHEDULE B**  
OTHER MEMBERSHIP SERVICES

<b>GHA SERVICE OFFERED</b>	<b>EXPLANATION</b>	<b>COST ALLOCATION</b>	<b>REQUIREMENT</b>
Member Hotel Champions	<ul style="list-style-type: none"> <li>Each Member Hotel or local/ regional cluster of hotels must nominate a DISCOVERY Hotel Champion, who will be responsible for all aspects of DISCOVERY management and training within their hotel.</li> </ul>	Hotel Cost	Mandatory
Face-to-face Training	<ul style="list-style-type: none"> <li>All Member DISCOVERY Hotel Champions and Member DISCOVERY Brand Champions will undergo two days of a face-to-face or virtual "train the trainer" programme</li> <li>Member DISCOVERY Hotel Champions are responsible for ensuring all Member Hotel staff in their specific hotel, cluster or region are trained, as per the requirements of the training programme</li> <li>Travel and accommodation costs related to the training are to be borne by the Hotel</li> </ul>	Hotel Cost	Mandatory
GM Training	<ul style="list-style-type: none"> <li>The GM of each Member Hotel (or the GM of each hotel cluster, in the case of hotels without dedicated GMs) must participate in a half-day introductory training programme. Costs related to this day's training (time, travel etc.) are borne by the Member</li> </ul>	Hotel Cost	Mandatory
E-learning	<ul style="list-style-type: none"> <li>An e-learning platform for DISCOVERY training will be made available and all Member employees will be expected to take regular refresher courses. An internal monitoring system is in place.</li> </ul>	GHA	Mandatory
G-Leads	Sending Agent Incentive G-Leads Champion Incentive G-Leads third party system fee GHA admin fee	Hotel Cost	Optional

# STATEMENT OF SERVICES SCHEDULE C

Reimbursements options for redemptions

## a) Flat Reimbursement Basis

Hotel is reimbursed 50% of the face value of the redeemed DISCOVERY Reward Currency in each redemption transaction.

## b) Stepped Reimbursement Basis

Hotel is reimbursed a variable percentage of the face value of the redeemed DISCOVERY Reward Currency, according to the total amount of DISCOVERY Reward Currency redeemed in the redemption transaction, as shown below:

### 2023 Stepped Reimbursement Model for all brands

Face Value of currency redeemed D\$/ USD	Reimbursement payment
0-100	30%
101-200	40%
201-400	60%
401+	80%

## c) Exceptional Demand Nights

If the chosen Reimbursement Basis for a year is the Flat Reimbursement Basis, then NH in agreement with the Hotel, may nominate up to ten nights per year in each Participating Hotel to be "Exceptional Demand Nights" with nominations being made on a hotel-by-hotel basis. Where a redemption of DISCOVERY Rewards Currency occurs during a stay at a Participating Hotel that includes at least one Exceptional Demand Night over the stay period, then the Stepped Reimbursement Basis will automatically apply to reimbursements for all redemptions in that stay.

**EXHIBIT B-4**  
**DATA PROTECTION AGREEMENT**

**NH HOTEL GROUP DATA PROTECTION AGREEMENT (“DPA”)  
ENTERED INTO BY AND AMONG**

....., a Delaware company, having an address  
..... (hereinafter, “**Franchisor**”); and

NH Hotel Group SA a Spanish company, having an address .....  
(hereinafter, “**NH Spain**”); and

....., a **XX** company, having an address at .....  
(hereinafter, the “**Franchisee**”),

Hereinafter referred to individually as a “**Party**”, and jointly as the “**Parties**”.

In consideration of the mutual promises and obligations of the Parties, they hereby agree as follows:

**ONE.- Franchise and Licenses**

1.1 Franchisor has granted to Franchisee a franchise to operate an NH Hotel (the “**Hotel**”) at the Approved Site, as defined in that certain Franchise Agreement, of even date herewith, between the Parties (“**FA**”).

1.2 Under the FA, Franchisor agrees to provide specific services to Franchisee in relation to the operation of the Hotel, namely property management services that are provided by Franchisor to Hotel guests and employees on behalf of Franchisee. Franchisor has delegated to NH Spain responsibility for providing, as Processor, the Property Management Services to Franchisee. Accordingly, NH Spain will be the entity that will carry out the processing of Personal Data in connection with the Property Management Services on behalf of Franchisee. The specific services that NH Spain will provide to the Franchisee as data processor are defined in ITEM 6, Brand Services, of the FRANCHISE DISCLOSURE AGREEMENT (hereinafter, “**FDD**”) and Annex I to Module 4 of the SCCs, attached hereto (hereinafter, the “**Property Management Services**”).

1.3 Franchisor, as licensee of NH Spain, agrees to grant Franchisee a license to participate in specific NH brand programs, operated by NH Spain as controller, namely (a) the global reservation and registration system for NH-branded hotels, as more fully described in Annex I to Module 1 of the SCCs, attached hereto and Annex I to Module 2 of the SCCs, attached hereto (“**Reservation System**”); (b) a global loyalty program for NH hotel guests, as more fully described in Annex I to Module 2 of the SCCs, attached hereto (“**Loyalty Program**”); and (c) a marketing program for promoting NH hotels world-wide as more fully described in Annex I to Module 2 of the SCCs, attached hereto (“**Marketing Program**”) ((a), (b) and (c) together, the “**NH Programs**”). In connection with NH Spain’s operation of the NH Programs, Franchisee, as Processor, will collect Personal Data on behalf of NH Spain, as controller. In addition, Franchisee, as Controller, will use the Reservation System to manage the personal data of guests at the Hotel.

1.4 The purpose of this DPA is to define the conditions under which the Parties will carry out the processing of personal data necessary for proper provision of the Services (as defined below).

## **TWO.- Definitions**

2.1 In this DPA capitalized terms that are not defined herein shall have the meanings set out in the FA and the following terms shall have the meanings set out below (and cognate terms shall be construed accordingly):

- 2.1.1 **“Controller”** means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law;
- 2.1.2 **“Data Protection Law”** means all privacy, cybersecurity, marketing and data protection laws, together with any implementing or supplemental rules and regulations, applicable to the processing of personal data under this DPA, as amended or replaced from time to time;
- 2.1.3 **“Data subject”** means an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
- 2.1.4 **“GDPR”** means the EU General Data Protection Regulation 2016/679 of the European Parliament and of the Council and associated national legislation;
- 2.1.5 **“Guest Personal Data”** means information and data relating to or derived from the Hotel’s guests and other customers during the Term of the FA (as defined therein), whether obtained from the guest or customer or from any other source, including names, preferences, and other information about the guests’ or customers’ experiences and/or purchases, and including information stored in or provided to the Reservation System or the Hotel’s property management system;
- 2.1.6 **“Personal Data”** means any personal data (as defined under Data Protection Law) that is Processed by any Processor or Subcontractor on behalf of a Controller pursuant to or in connection with the FA and this DPA, including but not limited to Guest Personal Data;
- 2.1.7 **“Personal Data Breach”** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data transmitted, stored or otherwise processed in connection with the FA or this DPA;
- 2.1.8 **‘Processing’** means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
- 2.1.9 **‘processor’ or ‘Processor’** means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller;
- 2.1.10 **“Restricted Transfer”** means a transfer or an onward transfer of Personal Data where such transfer would be prohibited or restricted by Data Protection Law in the absence the SCCs;

- 2.1.11 “**SCCs**” means, as applicable to the relevant data transfer: (i) Module 1, 2, 3 or 4 of the standard contractual clauses set out in the Commission Implementing Decision (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council (“**EU SCCs**”), and/or (ii) such other terms intended to provide adequate protection to transferred personal data pursuant to Data Protection Law; in each case, as amended or replaced from time to time under the relevant Data Protection Law;
- 2.1.12 “**Services**” means the Property Management Services and the Franchisee Services, as defined in this DPA; and
- 2.1.13 “**Supervisory Authority**” means an independent public authority which is established by a Member State under GDPR, or the equivalent or similar body under any other Data Protection Law.

### THREE.- ROLES OF THE PARTIES

- 3.1 For the provision of the Services included in the FA, the following terms shall apply:
  - 3.1.1 With respect to the Property Management Services, NH Spain is Processor on behalf of Franchisee, as Controller, for the purpose of providing the Property Management Services as described in the FDD and Annex I to Module 4. NH Spain shall collaborate with the Franchisee in order to provide the latter with the necessary legal texts to be followed in processing of data carried out for provision of the Property Management Services. Franchisee is solely responsible for determining whether any notice and/or consent to Data Subjects is required and may provide any such notice or consent to NH Spain in order for the latter to provide same to Data Subjects, in accordance with the guidelines given by Franchisee. NH Spain will keep such notice or consent available to Franchisee and will provide them in the event Franchisee requests these.
  - 3.1.2 The Franchisee and NH Spain each act as independent Controller as follows: NH Spain will be an independent Controller of the Guest Personal Data relating to guests of the Hotel in case of reservation by the guests through the Reservation System, as defined in Annex I to Module 1 of the SCCs, attached hereto. NH Spain will communicate to the Franchisee the data of the guests that will stay at the Hotel, and the Franchisee will act as independent Controller of such data to provide the accommodation services to such guests.as defined in Annex I to Module 1 of the SCCs, attached hereto.
  - 3.1.3 The Franchisee is Processor on behalf of NH Spain, as Controller, for the following purposes: (i) providing privacy notices to Data Subjects in connection with the Loyalty Program participation and the Marketing Program; (ii) collecting Personal Data and other information regarding the Loyalty Program and the Marketing Program, and transmitting such data and information to NH Spain; (iii) providing and obtaining consents from Data Subjects in connection with the Loyalty Program and the Marketing Program; and (iv) the retention and storage of such documents related to (i)-(iii) for the period determined by NH Spain (together, the “**Franchisee Services**”). In this regard, NH Spain may amend any such notice or consent and will provide it to the Franchisee in order for the latter to keep such documents updated, in accordance with the guidelines given by NH Spain. The

Franchisee will keep such documents available to NH Spain and will provide them in the event NH Spain requests these.

3.2 In no case shall the Franchisee be permitted to carry out campaigns, actions and / or commercial communications with respect to the Hotel or using Guest Personal Data, including using personal data for which Franchisee is a Controller as described in 3.1.2 above, unless there is prior written authorization from NH Spain.

3.3 In performing the Services, the Parties undertake to comply with Data Protection Law to the extent applicable to each in its capacity as Controller and/or Processor, as described in this clause Three.

#### **FOUR.- Term.**

This DPA shall be in force throughout the term of the FA.

#### **FIVE.- Processor Obligations.**

Each Party, when acting in its capacity as Processor of Personal Data, agrees to the following terms:

5.1 The Processor undertakes that the data processing it carries out will be limited to that necessary in order to provide the Services.

5.2 The Processor undertakes to process the relevant Personal Data in accordance with the instructions given to it in writing from time to time by the Controller.

5.3 If the Controller were to deem it appropriate to issue different instructions from those mentioned above, it will communicate them expressly to the Processor. If the Processor considers that an instruction issued by the Controller may be contrary to Data Protection Law, or technically or operatively non-feasible, it will notify the Controller immediately through the means and contact person indicated by the latter.

5.4 If the Processor considers it necessary to carry out processing of the data other than in compliance with the restrictions set forth in this DPA, or to use the data for a purpose other than the provision of the Services under the FA referred to herein, it must request the Controller's prior written authorization, which shall not be unreasonably or untimely withheld. In the absence of such authorization, the Processor may not carry out such processing.

5.5 The Processor shall apply commercially reasonable efforts in the provision of the Services in relation to the processing of Personal Data carried out in the context of the FA.

#### **SIX.- Prohibition from communicating personal data.**

Each Party, when acting in its capacity as Processor of Personal Data, agrees to the following terms:

6.1 The Processor undertakes to keep under its control and custody the Personal Data and not to disclose, transfer or otherwise communicate such data, not even for the conservation thereof, to other persons unrelated to it or to the provision of Services, with the exceptions set forth in Clause Seven.

6.2 However, the Processor will not incur liability when it communicates the data to a third party that has been entrusted with the provision of a service in accordance with the provisions of this DPA and of Data Protection Law for the provision of the Services.

6.3 Access by the Processor to the Personal Data shall not be considered to be a communication of data when such access is necessary for the correct provision of the Services hereunder or otherwise compliant with this DPA.

#### **SEVEN.- Subcontracting of the Services.**

7.1 The Party that is the relevant Controller hereby expressly authorizes the Party that is the relevant Processor to contract with third-party natural or legal entities to provide part of the services to the relevant Controller (hereinafter, "**Subcontractor**"), subject to the conditions set forth in this Clause Seven, and provided that the relevant Processor is in compliance with all its obligations under this DPA. The relevant Processor will notify the relevant Controller of its intent to engage a Subcontractor in accordance with the timing and forms established in the FA signed between the Parties. The relevant Controller shall have one (1) month to notify the relevant Processor if said Controller authorizes the Processor to engage the Subcontractor.

7.2 The relevant Processor may engage a Subcontractor on the condition that the Subcontractor is party to a binding agreement that contains data protection provisions materially equivalent to the obligations set forth in this DPA, including without limitation the provision of sufficient guarantees that the Subcontractor will apply appropriate technical and organizational measures to secure the Personal Data at all times and so that the processing complies with applicable law.

7.3 The relevant Processor shall be solely liable for ensuring that the Subcontractor is subject to the same conditions (instructions, obligations, security measures, etc.) and to the same formal requirements, in relation with the adequate processing of personal data and the guarantee of the rights of the data subjects affected, as set forth in this DPA.

7.4 Data Processor and Subcontractor must sign a data processing agreement for the provision of services which must comply with the requirements set forth in Data Protection Law.

7.5 The relevant Processor's obligations and responsibilities under this DPA shall not be discharged, impaired or diminished by reason of the engagement of any Subcontractor.

7.6 The relevant Processor assumes, directly and fully the liability arising from any breach by a Subcontractor of its data protection obligations or Data Protection Law, and shall hold harmless the relevant Controller from any consequences arising from the Subcontractor's actions or omissions. Said Controller may claim against the relevant Processor the amount of any sanctions or fines imposed on said Controller as regards actions infringing Data Protection Law arising, directly or indirectly, from actions or omissions of the Subcontractor.

#### **EIGHT.- International data transfers.**

In the case of Restricted Transfer, the Parties hereby enter into the relevant EU SCCs, which are attached to this DPA and expressly incorporated herein by reference.

**NINE.- Personal data security.**

The Parties undertake to guarantee application of appropriate technical and organizational measures in order to protect the rights and freedoms of the Data Subject, and at a minimum the Parties agree to implement the measures set forth in **Annex II**.

**TEN.- Collaboration in reporting security breaches.**

Each Party, when acting in its capacity as Processor of Personal Data, agrees to the following terms:

10.1 In the event of a Personal Data Breach, Processor as soon as it becomes aware of the Personal Data Breach is obliged to notify this via an encrypted email or other means of secure transmission to the Head of Security of the Controller, together with all the relevant information in order to document and communicate the Personal Data Breach, but in any case no more than 24 hours after detection. In the case of communication to Franchisor or NH Spain, the corresponding email address is the following: [dpo@nh-hotels.com](mailto:dpo@nh-hotels.com). In the case of communication to Franchisee, the corresponding email address is **INSERT**.

10.2 The Processor undertakes to provide support to the Controller if it is necessary to notify the Supervisory Authority and, as the case may be, the Data Subjects of any Personal Data Breach.

10.3 The Processor will provide the Controller with at least the following information, without undue delay as and when it becomes available:

- a) A description of the nature of the Personal Data Breach including, if possible, the categories and approximate number of Data Subjects affected, as well as the categories and approximate number of personal data records in question and the number of records implicating Personal Data.
- b) The name and contact details of the Data Protection Officer or other contact where information may be obtained.
- c) Description of the likely consequences of the Personal Data Breach.
- d) A description of the measures adopted or proposed to remedy the Personal Data Breach including, if appropriate, the measures adopted to mitigate the possible negative effects.

**ELEVEN.- Rights of access, rectification, erasure, restriction, objection and portability of data.**

Each Party, when acting in its capacity as Processor of Personal Data, agrees to the following terms:

11.1 To the extent required by Data Protection Law, the Processor undertakes to assist the Controller in connection with the exercise of the rights of access, rectification, erasure, objection, restriction of processing, data portability, as well as the right not to be subject of automated individualized decisions, in each case, as involves Personal Data.

11.2 Where NH Spain is Controller and Franchisee is Processor:

11.2.1 , if Data Subjects exercise their rights with the Franchisee and/or the authorized Subcontractor, NH Spain must be immediately notified at the following email address [dataprotection@nh-hotels.com](mailto:dataprotection@nh-hotels.com), and in any case within no more than 48 hours from receipt, together with, when applicable, other information which may be relevant for NH Spain to provide an adequate response. The Franchisee shall not respond to any request, unless otherwise authorized in writing by NH Spain; and

11.2.2 The Franchisee and / or Subcontractor must adopt the necessary measures to guarantee compliance with 11.2.1 above and the provision of information that NH Spain may reasonably require, in order to give an effective response to the Data Subject.

11.3 In any event, if either party fails to comply with its legal or contractual obligations in relation to the management of data protection rights, the non-complying party shall be liable.

## **TWELVE.- Confidentiality.**

Each Party, when acting in its capacity as Processor of Personal Data, agrees to the following terms:

12.1 Processor shall maintain the confidentiality of Personal Data throughout the duration of the relationship with the Controller and thereafter, depending on the type of information in question, for the maximum terms established in the applicable law. In particular, with regard to Personal Data processing, the duty of confidentiality shall be for an indefinite term, even after the relationship between the Parties has terminated.

12.2 The Processor shall take reasonable measures to ensure that the persons under its responsibility authorized to process the Personal Data undertake to observe confidentiality and will be subject to suitable legal obligations of confidentiality, even after the DPA has expired or terminated. The Processor shall keep available for examination by the Controller documentation proving that the corresponding non-disclosure agreements have been signed.

12.3 The Processor undertakes to allow access to Personal Data only by those employees who have a need to know in order to perform their functions for the purposes of this DPA and the FA.

## **THIRTEEN.- Obligation to return data.**

Each Party, when acting in its capacity as Processor of Personal Data, agrees to the following terms:

13.1 Once the provision of the Services has been completed, upon termination of this DPA for any reason, or when the Controller so requires, within a maximum period of one (1) month from the date of the

request by Controller, Processor undertakes to delete or return, as elected by Controller, all Personal Data, as well as all hard copies or electronic formats or any document which contain Personal Data, without keeping any copy thereof or of any information generated from the Personal Data.

13.2 Likewise, in case the Controller requires, the Processor shall issue a certificate certifying the delivery and / or confidential destruction of Personal Data, as well as the absence of copies thereof within a maximum period of five (5) working days of the request.

13.3 In the same way, Processor undertakes, in case the Controller elects destruction of the Personal Data, to carry out this process in a safe and confidential way, adopting the necessary organizational and technical measures to guarantee the non-recovery of the Personal Data, as well as the non-use of the same in the future or unauthorized access by third parties. The system chosen to destroy the Personal Data must be stated in a certification and delivered to the Controller. In any case, Processor will be responsible for the execution of the aforementioned procedure, as well as proving the same, in case of requirement by Controller, the Supervisory Authority or other competent authority in the matter. Processor shall be solely responsible for possible breaches resulting from the non-adoption of the necessary precautions or non-execution of the process contemplated in this Clause 13.3.

13.4 If there is a legal obligation which obliges the Processor to keep certain Personal Data for a period of time, then, to the extent that Spanish law applies, such Personal Data must remain blocked, and cannot be used for other purposes, and retained only to respond to valid requests from Public Administrations, Judges and Courts, in order to respond to the possible responsibilities which may arise from the processing, during the statute of limitation, after which the deletion must be undertaken.

#### **FOURTEEN.- Other Obligations of the Processor.**

Each Party, when acting in its capacity as Processor of Personal Data, undertakes to comply with the following obligations:

14.1 Provide support to the relevant Controller, whenever necessary, in performing privacy impact assessments and prior consultation of the Supervisory Authority, when appropriate, in relation to the Personal Data.

14.2 Keep a written record of all the categories of Personal Data processing activities carried out on behalf of the Controller, only if required by applicable law or regulation.

14.3 Cooperate with the Supervisory Authority, at its request, in fulfilling its functions.

14.4 Make available to the Controller all the information necessary to prove compliance with the obligations established in this DPA and Data Protection Law and to permit and contribute to the performance of audits by the Controller or a third party authorized by it, upon prior notice to Processor and with as little disturbance to Processor's operations as reasonably possible. Processor undertakes to provide the Controller with the certificates and documents that prove compliance with this DPA and Data Protection Law.

#### **FIFTEEN.-Obligations of the Controller.**

To perform the Services, the Parties agree that the relevant Controller will make available to the Processor the Personal Data and/or information necessary for the adequate processing thereof for the provision of the Services.

**SIXTEEN.- Guarantee of compliance.**

16.1 Each Party, in its capacity as Processor or Controller, respectively, warrants compliance with its obligations by virtue of the Data Protection Law.

16.2 Likewise, in the event of inspection or a demand of the Controller by any Supervisory Authority or other competent authority on the matter, the Processor will provide as much information as may be necessary in relation to the purpose and progress of the Services contemplated in this Exhibit, with a view to providing evidence of compliance with applicable law.

**SEVENTEEN.- Cooperation and responsibilities in the event of a claim.**

17.1 If in relation to the Personal Data the Processor is informed of any investigation or administrative penalty proceeding instigated by any Supervisory Authority, or in a claim made by a third party, it will notify the Controller immediately, describing the relevant facts. The Processor shall provide the Controller a copy of the resolution of the proceeding or claim.

17.2 In the event that the any Supervisory Authority penalizes the Controller or any of its customers as a consequence, directly and exclusively, of the fact that the Processor has not complied with the stipulations of this DPA or Data Protection Law, the Processor will compensate the Controller or, as the case may be, the customer, with an amount equal to the penalty imposed, after all appeals have been completed.

**EIGHTEEN.- Responsibilities.**

18.1 The Processor undertakes to comply with the obligations set forth in this DPA and in Data Protection Law regarding the present DPA.

18.2 In the event Processor uses the Personal Data for other purposes, communicates or uses them in breach of the stipulations of the present DPA, Processor will be considered Controller with all the consequences and responsibilities this implies according to Data Protection Law.

18.3 Processor will personally answer for the infringements which could be incurred in the event Processor uses the Personal Data for other purposes, communicates them to third parties or uses them in an irregular manner, or does not adopt the security measures established by applicable law, according to the nature of the data, or does not comply with the stipulations of the present DPA or any other provisions of the Data Protection Law.

18.4 Processor will assume total compensation for the damages caused and hold harmless the Controller from any claim arising in a judicial and / or extrajudicial action relating to any breach of the obligations contained in this DPA or of Data Protection Law. Controller may directly recover any economic sanctions imposed on the Processor by the Supervisory Authority as a consequence of said non-compliance.

18.5 Likewise, Processor undertakes to indemnify Controller for any and all the damages caused by a third party subcontracted by the Processor, derived from any type of breach related to the processing of Personal Data, including with respect to any international data transfers made without prior authorization of the Controller.

**NINETEEN.- Data of the Parties as Controllers.**

19.1 The personal data exchanged between the Parties to manage their respective relationship pursuant to the FA and this DPA, and notably personal data of each Party's employees, agents or representatives, will be processed by the other Party solely for the management of such relationship, on the basis of the performance of the contract between the Parties. The Parties may retain such personal data during the term of the FA and this DPA and any relevant statute of limitations. The data of the Parties may be communicated to third parties as necessary to manage their obligations under the FA and this DPA, including without limitation, to banks for the management of collections and payments; to tax and other governmental authorities for the purpose of carrying out the corresponding tax declarations; and complying with their respective legal obligations in accordance with applicable law.

19.2 NH Spain hereby informs the Franchisor and Franchisee that the personal data each provides in connection with the FA or this DPA relating to their employees, agents or representatives, will be transferred to countries located outside the European Economic Area and, specifically, to the USA, India and Philippines. This transfer will be made as a result of the provision of services that Accenture provides to NH Spain in relation to the management of the NH group's invoicing processes, on the basis of the relevant SCCs.

19.3 The Parties undertake to provide the information set forth in 19.2 to their respective employees, agents and representatives,, and to inform same that they may write to the respective addresses indicated in the heading of this DPA to exercise any rights of access, rectification, erasure, restriction, portability or other rights in respect of their personal data, and may also contact the relevant Supervisory Authority if they consider that their rights have been violated. In the case of communication to NH Spain, the employees, agents or representatives may also contact the data protection officer at the following address: [dpo@nh-hotels.com](mailto:dpo@nh-hotels.com).

**TWENTY.- Miscellaneous.**

**Modifications:** Any modifications to this DPA shall be made by mutual agreement between the Parties. For such purposes, the Party proposing the modification will request written approval from the other Parties at least fifteen (15) days in advance of the effective date of modification, and the said Party must give its response in writing within fifteen (15) days following receipt of the request. Failure to respond to the request for modification or a response outside the established term in which to do so shall be deemed to be non-acceptance of the modification. In any case, any modifications proposed may not contravene the provisions established in Data Protection Law or the criteria of the relevant Supervisory Authority.

**TWENTY-ONE.- Entry into effect.**

This DPA enters into force on the date of its signature and will have the duration stipulated in the FA to which the present document is attached.

In witness whereof, the Parties have signed this DPA as evidence of their agreement, at the place and on the date first indicated above.

For FRANCHISOR

For the FRANCHISEE

Signed .....

Signed .....

.....

.....

For NH Spain

Signed .....

.....

**STANDARD CONTRACTUAL CLAUSES – MODULE 1**

**SECTION I**

**1.**

**Purpose and scope**

1.1.1 The purpose of these standard contractual clauses is to ensure compliance with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)<sup>1</sup> for the transfer of personal data to a third country.

1.1.2 The Parties:

1.1.2.1 the natural or legal person(s), public authority/ies, agency/ies or other body/ies (hereinafter “entity/ies”) transferring the personal data, as listed in Annex I.A. (hereinafter each “data exporter”), and

1.1.2.2 the entity/ies in a third country receiving the personal data from the data exporter, directly or indirectly via another entity also Party to these Clauses, as listed in Annex I.A. (hereinafter each “data importer”)

have agreed to these standard contractual clauses (hereinafter: “Clauses”).

1.1.3 These Clauses apply with respect to the transfer of personal data as specified in Annex I.B.

1.1.4 The Appendix to these Clauses containing the Annexes referred to therein forms an integral part of these Clauses.

**2. Effect and invariability of the Clauses**

2.1.1 These Clauses set out appropriate safeguards, including enforceable data subject rights and effective legal remedies, pursuant to Article 46(1) and Article 46 (2)(c) of Regulation (EU) 2016/679 and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679, provided they are not modified, except to select the appropriate Module(s) or to add or update information in the Appendix.

---

<sup>1</sup> Where the data exporter is a processor subject to Regulation (EU) 2016/679 acting on behalf of a Union institution or body as controller, reliance on these Clauses when engaging another processor (sub-processing) not subject to Regulation (EU) 2016/679 also ensures compliance with Article 29(4) of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295 of 21.11.2018, p. 39), to the extent these Clauses and the data protection obligations as set out in the contract or other legal act between the controller and the processor pursuant to Article 29(3) of Regulation (EU) 2018/1725 are aligned. This will in particular be the case where the controller and processor rely on the standard contractual clauses included in Decision 2021/915.

This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a wider contract and/or to add other clauses or additional safeguards, provided that they do not contradict, directly or indirectly, these Clauses or prejudice the fundamental rights or freedoms of data subjects.

2.1.2 These Clauses are without prejudice to obligations to which the data exporter is subject by virtue of Regulation (EU) 2016/679.

### 3. **Third-party beneficiaries**

3.1.1 Data subjects may invoke and enforce these Clauses, as third-party beneficiaries, against the data exporter and/or data importer, with the following exceptions:

3.1.1.1 Clause 1, Clause 2, Clause 3, Clause 6, Clause 7;

3.1.1.2 Clause 8.5(e) and Clause 8.9(b);

3.1.1.3 Clause 12(a) and (d);

3.1.1.4 Cause 13;

3.1.1.5 Cause 15.1(c), (d) and (e);

3.1.1.6 Clause 16(e);

3.1.1.7 Clause 18(a) and (b).

3.1.2 Paragraph (a) is without prejudice to rights of data subjects under Regulation (EU) 2016/679.

### 4. **Interpretation**

4.1.1 Where these Clauses use terms that are defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.

4.1.2 These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.

4.1.3 These Clauses shall not be interpreted in a way that conflicts with rights and obligations provided for in Regulation (EU) 2016/679.

### 5. **Hierarchy**

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties, existing at the time these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

### 6. **Description of the transfer(s)**

The details of the transfer(s), and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred, are specified in Annex I.B.

**7. Docking clause**

- 7.1.1 An entity that is not a Party to these Clauses may, with the agreement of the Parties, accede to these Clauses at any time, either as a data exporter or as a data importer, by completing the Appendix and signing Annex I.A.
- 7.1.2 Once it has completed the Appendix and signed Annex I.A., the acceding entity shall become a Party to these Clauses and have the rights and obligations of a data exporter or data importer in accordance with its designation in Annex 1.A.
- 7.1.3 The acceding entity shall have no rights or obligations arising under these Clauses from the period prior to becoming a Party.

**SECTION II – OBLIGATIONS OF THE PARTIES**

**8. Data protection safeguards**

The data exporter warrants that it has used reasonable efforts to determine that the data importer is able, through the implementation of appropriate technical and organisational measures, to satisfy its obligations under these Clauses.

**8.1 Purpose limitation**

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I.B. It may only process the personal data for another purpose:

- 8.1.1.1 where it has obtained the data subject's prior consent;
- 8.1.1.2 where necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or
- 8.1.1.3 where necessary in order to protect the vital interests of the data subject or of another natural person.

**8.2 Transparency**

8.2.1 In order to enable data subjects to effectively exercise their rights pursuant to Clause 10, the data importer shall inform them, either directly or through the data exporter:

- 8.2.1.1 of its identity and contact details;
- 8.2.1.2 of the categories of personal data processed;
- 8.2.1.3 of the right to obtain a copy of these Clauses;
- 8.2.1.4 where it intends to onward transfer the personal data to any third party/ies, of the recipient or categories of recipients (as appropriate with

a view to providing meaningful information), the purpose of such onward transfer and the ground therefore pursuant to Clause 8.7.

- 8.2.2 Paragraph (a) shall not apply where the data subject already has the information, including when such information has already been provided by the data exporter, or providing the information proves impossible or would involve a disproportionate effort for the data importer. In the latter case, the data importer shall, to the extent possible, make the information publicly available.
- 8.2.3 On request, the Parties shall make a copy of these Clauses, including the Appendix as completed by them, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including personal data, the Parties may redact part of the text of the Appendix prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information.
- 8.2.4 Paragraphs (a) to (c) are without prejudice to the obligations of the data exporter under Articles 13 and 14 of Regulation (EU) 2016/679.

### **8.3 Accuracy and data minimisation**

- 8.3.1 Each Party shall ensure that the personal data is accurate and, where necessary, kept up to date. The data importer shall take every reasonable step to ensure that personal data that is inaccurate, having regard to the purpose(s) of processing, is erased or rectified without delay.
- 8.3.2 If one of the Parties becomes aware that the personal data it has transferred or received is inaccurate, or has become outdated, it shall inform the other Party without undue delay.
- 8.3.3 The data importer shall ensure that the personal data is adequate, relevant and limited to what is necessary in relation to the purpose(s) of processing.

### **8.4 Storage limitation**

The data importer shall retain the personal data for no longer than necessary for the purpose(s) for which it is processed. It shall put in place appropriate technical or organisational measures to ensure compliance with this obligation, including erasure or anonymisation<sup>2</sup> of the data and all back-ups at the end of the retention period.

### **8.5 Security of processing**

- 8.5.1 The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the personal data, including protection against a breach of security leading to accidental

---

<sup>2</sup> This requires rendering the data anonymous in such a way that the individual is no longer identifiable by anyone, in line with recital 26 of Regulation (EU) 2016/679, and that this process is irreversible.

or unlawful destruction, loss, alteration, unauthorised disclosure or access (hereinafter “personal data breach”). In assessing the appropriate level of security, they shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subject. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner.

- 8.5.2 The Parties have agreed on the technical and organisational measures set out in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.
- 8.5.3 The data importer shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- 8.5.4 In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the personal data breach, including measures to mitigate its possible adverse effects.
- 8.5.5 In case of a personal data breach that is likely to result in a risk to the rights and freedoms of natural persons, the data importer shall without undue delay notify both the data exporter and the competent supervisory authority pursuant to Clause 13. Such notification shall contain i) a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), ii) its likely consequences, iii) the measures taken or proposed to address the breach, and iv) the details of a contact point from whom more information can be obtained. To the extent it is not possible for the data importer to provide all the information at the same time, it may do so in phases without undue further delay.
- 8.5.6 In case of a personal data breach that is likely to result in a high risk to the rights and freedoms of natural persons, the data importer shall also notify without undue delay the data subjects concerned of the personal data breach and its nature, if necessary in cooperation with the data exporter, together with the information referred to in paragraph (e), points ii) to iv), unless the data importer has implemented measures to significantly reduce the risk to the rights or freedoms of natural persons, or notification would involve disproportionate efforts. In the latter case, the data importer shall instead issue a public communication or take a similar measure to inform the public of the personal data breach.
- 8.5.7 The data importer shall document all relevant facts relating to the personal data breach, including its effects and any remedial action taken, and keep a record thereof.

## **8.6 Sensitive data**

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions or offences (hereinafter "sensitive data"), the data importer shall apply specific restrictions and/or additional safeguards adapted to the specific nature of the data and the risks involved. This may include restricting the personnel permitted to access the personal data, additional security measures (such as pseudonymisation) and/or additional restrictions with respect to further disclosure.

## **8.7 Onward transfers**

The data importer shall not disclose the personal data to a third party located outside the European Union<sup>3</sup> (in the same country as the data importer or in another third country, hereinafter "onward transfer") unless the third party is or agrees to be bound by these Clauses, under the appropriate Module. Otherwise, an onward transfer by the data importer may only take place if:

- 8.7.1 it is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;
- 8.7.2 the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 of Regulation (EU) 2016/679 with respect to the processing in question;
- 8.7.3 the third party enters into a binding instrument with the data importer ensuring the same level of data protection as under these Clauses, and the data importer provides a copy of these safeguards to the data exporter;
- 8.7.4 it is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings;
- 8.7.5 it is necessary in order to protect the vital interests of the data subject or of another natural person; or
- 8.7.6 where none of the other conditions apply, the data importer has obtained the explicit consent of the data subject for an onward transfer in a specific situation, after having informed him/her of its purpose(s), the identity of the recipient and the possible risks of such transfer to him/her due to the lack of appropriate data protection safeguards. In this case, the data importer shall inform the data exporter and, at the request of the latter, shall transmit to it a copy of the information provided to the data subject.

Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

## **8.8 Processing under the authority of the data importer**

---

<sup>3</sup> The Agreement on the European Economic Area (EEA Agreement) provides for the extension of the European Union's internal market to the three EEA States Iceland, Liechtenstein and Norway. The Union data protection legislation, including Regulation (EU) 2016/679, is covered by the EEA Agreement and has been incorporated into Annex XI thereto. Therefore, any disclosure by the data importer to a third party located in the EEA does not qualify as an onward transfer for the purpose of these Clauses.

The data importer shall ensure that any person acting under its authority, including a processor, processes the data only on its instructions.

**8.9 Documentation and compliance**

8.9.1 Each Party shall be able to demonstrate compliance with its obligations under these Clauses. In particular, the data importer shall keep appropriate documentation of the processing activities carried out under its responsibility.

8.9.2 The data importer shall make such documentation available to the competent supervisory authority on request.

**9. Use of sub-processors**

Not applicable

**10. Data subject rights**

10.1.1 The data importer, where relevant with the assistance of the data exporter, shall deal with any enquiries and requests it receives from a data subject relating to the processing of his/her personal data and the exercise of his/her rights under these Clauses without undue delay and at the latest within one month of the receipt of the enquiry or request.<sup>4</sup> The data importer shall take appropriate measures to facilitate such enquiries, requests and the exercise of data subject rights. Any information provided to the data subject shall be in an intelligible and easily accessible form, using clear and plain language.

10.1.2 In particular, upon request by the data subject the data importer shall, free of charge :

10.1.2.1 provide confirmation to the data subject as to whether personal data concerning him/her is being processed and, where this is the case, a copy of the data relating to him/her and the information in Annex I; if personal data has been or will be onward transferred, provide information on recipients or categories of recipients (as appropriate with a view to providing meaningful information) to which the personal data has been or will be onward transferred, the purpose of such onward transfers and their ground pursuant to Clause 8.7; and provide information on the right to lodge a complaint with a supervisory authority in accordance with Clause 12(c)(i);

10.1.2.2 rectify inaccurate or incomplete data concerning the data subject;

10.1.2.3 erase personal data concerning the data subject if such data is being or has been processed in violation of any of these Clauses ensuring third-party beneficiary rights, or if the data subject withdraws the consent on which the processing is based.

---

<sup>4</sup> That period may be extended by a maximum of two more months, to the extent necessary taking into account the complexity and number of requests. The data importer shall duly and promptly inform the data subject of any such extension.

- 10.1.3 Where the data importer processes the personal data for direct marketing purposes, it shall cease processing for such purposes if the data subject objects to it.
- 10.1.4 The data importer shall not make a decision based solely on the automated processing of the personal data transferred (hereinafter “automated decision”), which would produce legal effects concerning the data subject or similarly significantly affect him / her, unless with the explicit consent of the data subject or if authorised to do so under the laws of the country of destination, provided that such laws lays down suitable measures to safeguard the data subject’s rights and legitimate interests. In this case, the data importer shall, where necessary in cooperation with the data exporter:
- 10.1.4.1 inform the data subject about the envisaged automated decision, the envisaged consequences and the logic involved; and
- 10.1.4.2 implement suitable safeguards, at least by enabling the data subject to contest the decision, express his/her point of view and obtain review by a human being.
- 10.1.5 Where requests from a data subject are excessive, in particular because of their repetitive character, the data importer may either charge a reasonable fee taking into account the administrative costs of granting the request or refuse to act on the request.
- 10.1.6 The data importer may refuse a data subject’s request if such refusal is allowed under the laws of the country of destination and is necessary and proportionate in a democratic society to protect one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679.
- 10.1.7 If the data importer intends to refuse a data subject’s request, it shall inform the data subject of the reasons for the refusal and the possibility of lodging a complaint with the competent supervisory authority and/or seeking judicial redress.

## **11. Redress**

- 11.1.1 The data importer shall inform data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a data subject.
- 11.1.2 In case of a dispute between a data subject and one of the Parties as regards compliance with these Clauses, that Party shall use its best efforts to resolve the issue amicably in a timely fashion. The Parties shall keep each other informed about such disputes and, where appropriate, cooperate in resolving them.
- 11.1.3 Where the data subject invokes a third-party beneficiary right pursuant to Clause 3, the data importer shall accept the decision of the data subject to:

- 11.1.3.1 lodge a complaint with the supervisory authority in the Member State of his/her habitual residence or place of work, or the competent supervisory authority pursuant to Clause 13;
- 11.1.3.2 refer the dispute to the competent courts within the meaning of Clause 18.
- 11.1.4 The Parties accept that the data subject may be represented by a not-for-profit body, organisation or association under the conditions set out in Article 80(1) of Regulation (EU) 2016/679.
- 11.1.5 The data importer shall abide by a decision that is binding under the applicable EU or Member State law.
- 11.1.6 The data importer agrees that the choice made by the data subject will not prejudice his/her substantive and procedural rights to seek remedies in accordance with applicable laws.

## **12. Liability**

- 12.1.1 Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.
- 12.1.2 Each Party shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages that the Party causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter under Regulation (EU) 2016/679.
- 12.1.3 Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.
- 12.1.4 The Parties agree that if one Party is held liable under paragraph (a), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its / their responsibility for the damage.
- 12.1.5 The data importer may not invoke the conduct of a processor or sub-processor to avoid its own liability.

## **13. Supervision**

- 13.1.1 [Where the data exporter is established in an EU Member State:] The supervisory authority with responsibility for ensuring compliance by the data exporter with

Regulation (EU) 2016/679 as regards the data transfer, as indicated in Annex I.C, shall act as competent supervisory authority.

[Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) and has appointed a representative pursuant to Article 27(1) of Regulation (EU) 2016/679:] The supervisory authority of the Member State in which the representative within the meaning of Article 27(1) of Regulation (EU) 2016/679 is established, as indicated in Annex I.C, shall act as competent supervisory authority.

[Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) without however having to appoint a representative pursuant to Article 27(2) of Regulation (EU) 2016/679:] The supervisory authority of one of the Member States in which the data subjects whose personal data is transferred under these Clauses in relation to the offering of goods or services to them, or whose behaviour is monitored, are located, as indicated in Annex I.C., shall act as competent supervisory authority.

13.1.2 The data importer agrees to submit itself to the jurisdiction of and cooperate with the competent supervisory authority in any procedures aimed at ensuring compliance with these Clauses. In particular, the data importer agrees to respond to enquiries, submit to audits and comply with the measures adopted by the supervisory authority, including remedial and compensatory measures. It shall provide the supervisory authority with written confirmation that the necessary actions have been taken.

### **SECTION III – LOCAL LAWS AND OBLIGATIONS IN CASE OF ACCESS BY PUBLIC AUTHORITIES**

#### **14. Local laws and practices affecting compliance with the Clauses**

14.1.1 The Parties warrant that they have no reason to believe that the laws and practices in the third country of destination applicable to the processing of the personal data by the data importer, including any requirements to disclose personal data or measures authorising access by public authorities, prevent the data importer from fulfilling its obligations under these Clauses. This is based on the understanding that laws and practices that respect the essence of the fundamental rights and freedoms and do not exceed what is necessary and proportionate in a democratic society to safeguard one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679, are not in contradiction with these Clauses.

14.1.2 The Parties declare that in providing the warranty in paragraph (a), they have taken due account in particular of the following elements:

14.1.2.1 the specific circumstances of the transfer, including the length of the processing chain, the number of actors involved and the transmission channels used; intended onward transfers; the type of recipient; the purpose of processing; the categories and format of the transferred

personal data; the economic sector in which the transfer occurs; the storage location of the data transferred;

- 14.1.2.2 the laws and practices of the third country of destination– including those requiring the disclosure of data to public authorities or authorising access by such authorities – relevant in light of the specific circumstances of the transfer, and the applicable limitations and safeguards<sup>5</sup>;
  - 14.1.2.3 any relevant contractual, technical or organisational safeguards put in place to supplement the safeguards under these Clauses, including measures applied during transmission and to the processing of the personal data in the country of destination.
- 14.1.3 The data importer warrants that, in carrying out the assessment under paragraph (b), it has made its best efforts to provide the data exporter with relevant information and agrees that it will continue to cooperate with the data exporter in ensuring compliance with these Clauses.
- 14.1.4 The Parties agree to document the assessment under paragraph (b) and make it available to the competent supervisory authority on request.
- 14.1.5 The data importer agrees to notify the data exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under paragraph (a), including following a change in the laws of the third country or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements in paragraph (a).
- 14.1.6 Following a notification pursuant to paragraph (e), or if the data exporter otherwise has reason to believe that the data importer can no longer fulfil its obligations under these Clauses, the data exporter shall promptly identify appropriate measures (e.g. technical or organisational measures to ensure security and confidentiality) to be adopted by the data exporter and/or data importer to address the situation. The data exporter shall suspend the data transfer if it considers that no appropriate safeguards for such transfer can be ensured, or if instructed by the competent supervisory authority to do so. In this case, the data exporter shall be entitled to terminate the

---

<sup>5</sup> As regards the impact of such laws and practices on compliance with these Clauses, different elements may be considered as part of an overall assessment. Such elements may include relevant and documented practical experience with prior instances of requests for disclosure from public authorities, or the absence of such requests, covering a sufficiently representative time-frame. This refers in particular to internal records or other documentation, drawn up on a continuous basis in accordance with due diligence and certified at senior management level, provided that this information can be lawfully shared with third parties. Where this practical experience is relied upon to conclude that the data importer will not be prevented from complying with these Clauses, it needs to be supported by other relevant, objective elements, and it is for the Parties to consider carefully whether these elements together carry sufficient weight, in terms of their reliability and representativeness, to support this conclusion. In particular, the Parties have to take into account whether their practical experience is corroborated and not contradicted by publicly available or otherwise accessible, reliable information on the existence or absence of requests within the same sector and/or the application of the law in practice, such as case law and reports by independent oversight bodies.

contract, insofar as it concerns the processing of personal data under these Clauses. If the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise. Where the contract is terminated pursuant to this Clause, 16.1.4 and 16.1.5 shall apply.

## **15. Obligations of the data importer in case of access by public authorities**

### **15.1 Notification**

15.1.1 The data importer agrees to notify the data exporter and, where possible, the data subject promptly (if necessary with the help of the data exporter) if it:

15.1.1.1 receives a legally binding request from a public authority, including judicial authorities, under the laws of the country of destination for the disclosure of personal data transferred pursuant to these Clauses; such notification shall include information about the personal data requested, the requesting authority, the legal basis for the request and the response provided; or

15.1.1.2 becomes aware of any direct access by public authorities to personal data transferred pursuant to these Clauses in accordance with the laws of the country of destination; such notification shall include all information available to the importer.

15.1.2 If the data importer is prohibited from notifying the data exporter and/or the data subject under the laws of the country of destination, the data importer agrees to use its best efforts to obtain a waiver of the prohibition, with a view to communicating as much information as possible, as soon as possible. The data importer agrees to document its best efforts in order to be able to demonstrate them on request of the data exporter.

15.1.3 Where permissible under the laws of the country of destination, the data importer agrees to provide the data exporter, at regular intervals for the duration of the contract, with as much relevant information as possible on the requests received (in particular, number of requests, type of data requested, requesting authority/ies, whether requests have been challenged and the outcome of such challenges, etc.).

15.1.4 The data importer agrees to preserve the information pursuant to paragraphs (a) to (c) for the duration of the contract and make it available to the competent supervisory authority on request.

15.1.5 Paragraphs(a) to (c) are without prejudice to the obligation of the data importer pursuant to Clause 14(e) and Clause 16 to inform the data exporter promptly where it is unable to comply with these Clauses.

### **15.2 Review of legality and data minimisation**

- 15.2.1 The data importer agrees to review the legality of the request for disclosure, in particular whether it remains within the powers granted to the requesting public authority, and to challenge the request if, after careful assessment, it concludes that there are reasonable grounds to consider that the request is unlawful under the laws of the country of destination, applicable obligations under international law and principles of international comity. The data importer shall, under the same conditions, pursue possibilities of appeal. When challenging a request, the data importer shall seek interim measures with a view to suspending the effects of the request until the competent judicial authority has decided on its merits. It shall not disclose the personal data requested until required to do so under the applicable procedural rules. These requirements are without prejudice to the obligations of the data importer under Clause 14(e).
- 15.2.2 The data importer agrees to document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, make the documentation available to the data exporter. It shall also make it available to the competent supervisory authority on request.
- 15.2.3 The data importer agrees to provide the minimum amount of information permissible when responding to a request for disclosure, based on a reasonable interpretation of the request.

#### **SECTION IV – FINAL PROVISIONS**

#### **16. Non-compliance with the Clauses and termination**

- 16.1.1 The data importer shall promptly inform the data exporter if it is unable to comply with these Clauses, for whatever reason.
- 16.1.2 In the event that the data importer is in breach of these Clauses or unable to comply with these Clauses, the data exporter shall suspend the transfer of personal data to the data importer until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 14(f).
- 16.1.3 The data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses, where:
- 16.1.3.1 the data exporter has suspended the transfer of personal data to the data importer pursuant to paragraph (b) and compliance with these Clauses is not restored within a reasonable time and in any event within one month of suspension;
  - 16.1.3.2 the data importer is in substantial or persistent breach of these Clauses;  
or

- 16.1.3.3 the data importer fails to comply with a binding decision of a competent court or supervisory authority regarding its obligations under these Clauses.

In these cases, it shall inform the competent supervisory authority of such non-compliance. Where the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise.

- 16.1.4 Personal data that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall at the choice of the data exporter immediately be returned to the data exporter or deleted in its entirety. The same shall apply to any copies of the data. The data importer shall certify the deletion of the data to the data exporter. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit the return or deletion of the transferred personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law.

- 16.1.5 Either Party may revoke its agreement to be bound by these Clauses where (i) the European Commission adopts a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 that covers the transfer of personal data to which these Clauses apply; or (ii) Regulation (EU) 2016/679 becomes part of the legal framework of the country to which the personal data is transferred. This is without prejudice to other obligations applying to the processing in question under Regulation (EU) 2016/679.

## **17. Governing law**

These Clauses shall be governed by the law of one of the EU Member States, provided such law allows for third-party beneficiary rights. The Parties agree that this shall be the law of Spain.

## **18. Choice of forum and jurisdiction**

- 18.1.1 Any dispute arising from these Clauses shall be resolved by the courts of an EU Member State.
- 18.1.2 The Parties agree that those shall be the courts of Spain.
- 18.1.3 A data subject may also bring legal proceedings against the data exporter and/or data importer before the courts of the Member State in which he/she has his/her habitual residence.
- 18.1.4 The Parties agree to submit themselves to the jurisdiction of such courts.

**APPENDIX TO MODULE 1**

**ANNEX I – MODULE 1 - RESERVATION SYSTEM DATA, CONTRACT ADMINISTRATION DATA**

**A. LIST OF PARTIES**

**Data exporter(s):** *[Identity and contact details of the data exporter(s) and, where applicable, of its/their data protection officer and/or representative in the European Union]*

1. Name: NH HOTEL GROUP, S.A.

Address: Santa Engracia 120, 28003, Madrid, Spain.

Contact person's name, position and contact details: dpo@nh-hotels.com

Activities relevant to the data transferred under these Clauses: Data exporter, as operator of the NH Hotels Reservation System, shares personal data with data importer, as franchisee under the NH Hotels brand pursuant to the FA. Data exporter employees, representatives and agents also communicate with data importer for the purposes of the performance of the FA and the DPA, and in that connection may transfer personal data for the administration of the FA and the DPA.

Signature and date: ...

Role (controller/processor): Controller

**Data importer(s):** *[Identity and contact details of the data importer(s), including any contact person with responsibility for data protection]*

1. Name: ...

Address: ...

Contact person's name, position and contact details: ...

Activities relevant to the data transferred under these Clauses: Data importer is a franchisee under the NH Hotels brand pursuant to the FA, and receives personal data from data exporter, which is the operator of the NH Hotels reservation and registration system. Data importer employee, representatives and agents also communicate with data exporter for the purposes of the performance of the FA and the DPA, and in that connection may receive personal data from or relating to data exporter employees, representatives and agents for the administration of the FA and the DPA.

Signature and date: ...

Role (controller/processor): Controller

**B. DESCRIPTION OF TRANSFER – MODULE 1 – RESERVATION SYSTEM DATA, CONTRACT ADMINISTRATION DATA**

*Categories of data subjects whose personal data is transferred*

Customers.

Potential customers.

Employees, representatives and agents.

*Categories of personal data transferred*

Identification data (name and surnames, NIF/ID Card, , telephone, signature, finder print, image/voice, electronic signature).

Personal characteristics data (civil status, family data, date of birth, place of birth, age, sex, nationality, native language).

Interests and hobbies data.

Academic and professional data (training/qualifications, student's records, professional experience, membership of colleges or professional associations).

Details of employment data (profession, job position,).

Commercial information.

Economic, financial and insurance data (bank data, credit history, credit card).

Transaction of goods and services data (goods and services supplied or received, financial transactions, remedies and indemnities).

*Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.*

Not applicable.

*The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).*

Continuous.

*Nature of the processing*

Providing services to guests; administrating the FA, the DPA and the data exporter's and data importer's relationship thereunder.

*Purpose(s) of the data transfer and further processing*

Performance of the FA and the DPA.

*The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period*

During the contractual relationship and then, during the relevant statutes of limitation.

*For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing*

Not applicable.

**C. COMPETENT SUPERVISORY AUTHORITY**

*Identify the competent supervisory authority/ies in accordance with 13*

AEPD

C/ Jorge Juan, 6

28001 Madrid, Spain

**ANNEX II - TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA**

*Description of the technical and organisational measures implemented by the data importer(s) (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons.*

*[Examples of possible measures:*

*Measures of pseudonymisation and encryption of personal data*

*Measures for ensuring ongoing confidentiality, integrity, availability and resilience of processing systems and services*

*Measures for ensuring the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident*

*Processes for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures in order to ensure the security of the processing*

*Measures for user identification and authorization*

*Measures for the protection of data during transmission*

*Measures for the protection of data during storage*

*Measures for ensuring physical security of locations at which personal data are processed*

*Measures for ensuring events logging*

*Measures for ensuring system configuration, including default configuration*

*Measures for internal IT and IT security governance and management*

*Measures for certification/assurance of processes and products*

*Measures for ensuring data minimisation*

*Measures for ensuring data quality*

*Measures for ensuring limited data retention*

*Measures for ensuring accountability*

*Measures for allowing data portability and ensuring erasure]*

*For transfers to (sub-) processors, also describe the specific technical and organisational measures to be taken by the (sub-) processor to be able to provide assistance to the controller and, for transfers from a processor to a sub-processor, to the data exporter.]*

**STANDARD CONTRACTUAL CLAUSES – MODULE 2**

**SECTION I**

*Clause 1*

**Purpose and scope**

- (a) The purpose of these standard contractual clauses is to ensure compliance with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) ( ) for the transfer of personal data to a third country.
- (b) The Parties:
  - (i) the natural or legal person(s), public authority/ies, agency/ies or other body/ies (hereinafter ‘entity/ies’) transferring the personal data, as listed in Annex I.A (hereinafter each ‘data exporter’), and
  - (ii) the entity/ies in a third country receiving the personal data from the data exporter, directly or indirectly via another entity also Party to these Clauses, as listed in Annex I.A (hereinafter each ‘data importer’)

have agreed to these standard contractual clauses (hereinafter: ‘Clauses’).

- (c) These Clauses apply with respect to the transfer of personal data as specified in Annex I.B.
- (d) The Appendix to these Clauses containing the Annexes referred to therein forms an integral part of these Clauses.

*Clause 2*

**Effect and invariability of the clauses**

- (a) These Clauses set out appropriate safeguards, including enforceable data subject rights and effective legal remedies, pursuant to Article 46(1) and Article 46(2)(c) of Regulation (EU) 2016/679 and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679, provided they are not modified, except to select the appropriate Module(s) or to add or update information in the Appendix. This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a wider contract and/or to add other clauses or additional safeguards, provided that they do not contradict, directly or indirectly, these Clauses or prejudice the fundamental rights or freedoms of data subjects.
- (b) These Clauses are without prejudice to obligations to which the data exporter is subject by virtue of Regulation (EU) 2016/679.

*Clause 3*

**Third-party beneficiaries**

- (a) Data subjects may invoke and enforce these Clauses, as third-party beneficiaries, against the data exporter and/or data importer, with the following exceptions:
- (i) Clause 1, Clause 2, Clause 3, Clause 6, Clause 7;
  - (ii) Clause 8 –Clause 8.1(b), 8.9(a), (c), (d) and (e);
  - (iii) Clause 9 –Clause 9(a), (c), (d) and (e);
  - (iv) Clause 12 –Clause 12(a), (d) and (f);
  - (v) Clause 13;
  - (vi) Clause 15.1(c), (d) and (e);
  - (vii) Clause 16(e);
  - (viii) Clause 18 –Clause 18(a) and (b);
- (b) Paragraph (a) is without prejudice to rights of data subjects under Regulation (EU) 2016/679.

#### *Clause 4*

##### **Interpretation**

- (a) Where these Clauses use terms that are defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.
- (b) These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.
- (c) These Clauses shall not be interpreted in a way that conflicts with rights and obligations provided for in Regulation (EU) 2016/679.

#### *Clause 5*

##### **Hierarchy**

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties, existing at the time these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

#### *Clause 6*

##### **Description of the transfer(s)**

The details of the transfer(s), and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred, are specified in Annex I.B.

#### *Clause 7*

##### **Docking clause**

- (a) An entity that is not a Party to these Clauses may, with the agreement of the Parties, accede to these Clauses at any time, either as a data exporter or as a data importer, by completing the Appendix and signing Annex I.A.
- (b) Once it has completed the Appendix and signed Annex I.A, the acceding entity shall become a Party to these Clauses and have the rights and obligations of a data exporter or data importer in accordance with its designation in Annex I.A.
- (c) The acceding entity shall have no rights or obligations arising under these Clauses from the period prior to becoming a Party.

## **SECTION II**

### *Clause 8*

#### **Data protection safeguards**

The data exporter warrants that it has used reasonable efforts to determine that the data importer is able, through the implementation of appropriate technical and organisational measures, to satisfy its obligations under these Clauses.

##### **8.1 Instructions**

- (a) The data importer shall process the personal data only on documented instructions from the data exporter. The data exporter may give such instructions throughout the duration of the contract.
- (b) The data importer shall immediately inform the data exporter if it is unable to follow those instructions.

##### **8.2 Purpose limitation**

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I. B, unless on further instructions from the data exporter.

##### **8.3 Transparency**

On request, the data exporter shall make a copy of these Clauses, including the Appendix as completed by the Parties, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including the measures described in Annex II and personal data, the data exporter may redact part of the text of the Appendix to these Clauses prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand the its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information. This Clause is without prejudice to the obligations of the data exporter under Articles 13 and 14 of Regulation (EU) 2016/679.

##### **8.4 Accuracy**

If the data importer becomes aware that the personal data it has received is inaccurate, or has become outdated, it shall inform the data exporter without undue delay. In this case, the data importer shall cooperate with the data exporter to erase or rectify the data.

### **8.5 Duration of processing and erasure or return of data**

Processing by the data importer shall only take place for the duration specified in Annex I.B. After the end of the provision of the processing services, the data importer shall, at the choice of the data exporter, delete all personal data processed on behalf of the data exporter and certify to the data exporter that it has done so, or return to the data exporter all personal data processed on its behalf and delete existing copies. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit return or deletion of the personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process it to the extent and for as long as required under that local law. This is without prejudice to Clause 14, in particular the requirement for the data importer under Clause 14(e) to notify the data exporter throughout the duration of the contract if it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under Clause 14(a).

### **8.6 Security of processing**

- (a) The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to that data (hereinafter 'personal data breach'). In assessing the appropriate level of security, the Parties shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subjects. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner. In case of pseudonymisation, the additional information for attributing the personal data to a specific data subject shall, where possible, remain under the exclusive control of the data exporter. In complying with its obligations under this paragraph, the data importer shall at least implement the technical and organisational measures specified in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.
- (b) The data importer shall grant access to the personal data to members of its personnel only to the extent strictly necessary for the implementation, management and monitoring of the contract. It shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- (c) In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the breach, including measures to mitigate its adverse effects. The data importer shall also notify the data exporter without undue delay after having become aware of the breach. Such notification shall contain the details of a contact point where more information can be obtained, a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), its likely consequences and the measures taken or proposed to address the breach including, where appropriate, measures to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide all information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.

- (d) The data importer shall cooperate with and assist the data exporter to enable the data exporter to comply with its obligations under Regulation (EU) 2016/679, in particular to notify the competent supervisory authority and the affected data subjects, taking into account the nature of processing and the information available to the data importer.

### **8.7 Sensitive data**

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and offences (hereinafter 'sensitive data'), the data importer shall apply the specific restrictions and/or additional safeguards described in Annex I.B.

### **8.8 Onward transfers**

The data importer shall only disclose the personal data to a third party on documented instructions from the data exporter. In addition, the data may only be disclosed to a third party located outside the European Union (4) (in the same country as the data importer or in another third country, hereinafter 'onward transfer') if the third party is or agrees to be bound by these Clauses, under the appropriate Module, or if:

- (i) the onward transfer is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;
- (ii) the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 Regulation of (EU) 2016/679 with respect to the processing in question;
- (iii) the onward transfer is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or
- (iv) the onward transfer is necessary in order to protect the vital interests of the data subject or of another natural person.

Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

### **8.9 Documentation and compliance**

- (a) The data importer shall promptly and adequately deal with enquiries from the data exporter that relate to the processing under these Clauses.
- (b) The Parties shall be able to demonstrate compliance with these Clauses. In particular, the data importer shall keep appropriate documentation on the processing activities carried out on behalf of the data exporter.
- (c) The data importer shall make available to the data exporter all information necessary to demonstrate compliance with the obligations set out in these Clauses and at the data exporter's request, allow for and contribute to audits of the processing activities covered by these Clauses, at

reasonable intervals or if there are indications of non-compliance. In deciding on a review or audit, the data exporter may take into account relevant certifications held by the data importer.

- (d) The data exporter may choose to conduct the audit by itself or mandate an independent auditor. Audits may include inspections at the premises or physical facilities of the data importer and shall, where appropriate, be carried out with reasonable notice.
- (e) The Parties shall make the information referred to in paragraphs (b) and (c), including the results of any audits, available to the competent supervisory authority on request.

#### *Clause 9*

##### **Use of sub-processors**

- (a) **OPTION 1: SPECIFIC PRIOR AUTHORISATION** The data importer shall not sub-contract any of its processing activities performed on behalf of the data exporter under these Clauses to a sub-processor without the data exporter's prior specific written authorisation. The data importer shall submit the request for specific authorisation at least [Specify time period] prior to the engagement of the sub-processor, together with the information necessary to enable the data exporter to decide on the authorisation. The list of sub-processors already authorised by the data exporter can be found in Annex III. The Parties shall keep Annex III up to date.
- (b) Where the data importer engages a sub-processor to carry out specific processing activities (on behalf of the data exporter), it shall do so by way of a written contract that provides for, in substance, the same data protection obligations as those binding the data importer under these Clauses, including in terms of third-party beneficiary rights for data subjects. (6) The Parties agree that, by complying with this Clause, the data importer fulfils its obligations under Clause 8.8. The data importer shall ensure that the sub-processor complies with the obligations to which the data importer is subject pursuant to these Clauses.
- (c) The data importer shall provide, at the data exporter's request, a copy of such a sub-processor agreement and any subsequent amendments to the data exporter. To the extent necessary to protect business secrets or other confidential information, including personal data, the data importer may redact the text of the agreement prior to sharing a copy.
- (d) The data importer shall remain fully responsible to the data exporter for the performance of the sub-processor's obligations under its contract with the data importer. The data importer shall notify the data exporter of any failure by the sub-processor to fulfil its obligations under that contract.
- (e) The data importer shall agree a third-party beneficiary clause with the sub-processor whereby – in the event the data importer has factually disappeared, ceased to exist in law or has become insolvent – the data exporter shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.

#### *Clause 10*

##### **Data subject rights**

---

<sup>6</sup> This requirement may be satisfied by the sub-processor acceding to these Clauses under the appropriate Module, in accordance with Clause 7.

- (a) The data importer shall promptly notify the data exporter of any request it has received from a data subject. It shall not respond to that request itself unless it has been authorised to do so by the data exporter.
- (b) The data importer shall assist the data exporter in fulfilling its obligations to respond to data subjects' requests for the exercise of their rights under Regulation (EU) 2016/679. In this regard, the Parties shall set out in Annex II the appropriate technical and organisational measures, taking into account the nature of the processing, by which the assistance shall be provided, as well as the scope and the extent of the assistance required.
- (c) In fulfilling its obligations under paragraphs (a) and (b), the data importer shall comply with the instructions from the data exporter.

*Clause 11*

**Redress**

- (a) The data importer shall inform data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a data subject.
- (b) The data importer shall inform data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a data subject.
- (c) The data importer agrees that data subjects may also lodge a complaint with an independent dispute resolution body (11) at no cost to the data subject. It shall inform the data subjects, in the manner set out in paragraph (a), of such redress mechanism and that they are not required to use it, or follow a particular sequence in seeking redress.
- (d) In case of a dispute between a data subject and one of the Parties as regards compliance with these Clauses, that Party shall use its best efforts to resolve the issue amicably in a timely fashion. The Parties shall keep each other informed about such disputes and, where appropriate, cooperate in resolving them
- (e) Where the data subject invokes a third-party beneficiary right pursuant to Clause 3, the data importer shall accept the decision of the data subject to:
  - (i) lodge a complaint with the supervisory authority in the Member State of his/her habitual residence or place of work, or the competent supervisory authority pursuant to Clause 13;
  - (ii) refer the dispute to the competent courts within the meaning of Clause 18.
- (f) The Parties accept that the data subject may be represented by a not-for-profit body, organisation or association under the conditions set out in Article 80(1) of Regulation (EU) 2016/679
- (g) The data importer shall abide by a decision that is binding under the applicable EU or Member State law.
- (h) The data importer agrees that the choice made by the data subject will not prejudice his/her substantive and procedural rights to seek remedies in accordance with applicable laws.

*Clause 12*

**Liability**

- (a) Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.
- (b) The data importer shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data importer or its sub-processor causes the data subject by breaching the third-party beneficiary rights under these Clauses.
- (c) Notwithstanding paragraph (b), the data exporter shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data exporter or the data importer (or its sub-processor) causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter and, where the data exporter is a processor acting on behalf of a controller, to the liability of the controller under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable.
- (d) The Parties agree that if the data exporter is held liable under paragraph (c) for damages caused by the data importer (or its sub-processor), it shall be entitled to claim back from the data importer that part of the compensation corresponding to the data importer's responsibility for the damage.
- (e) Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.
- (f) The Parties agree that if one Party is held liable under paragraph (e), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its/their responsibility for the damage.
- (g) The data importer may not invoke the conduct of a sub-processor to avoid its own liability.

*Clause 13*

**Supervision**

- (a) [Where the data exporter is established in an EU Member State:] The supervisory authority with responsibility for ensuring compliance by the data exporter with Regulation (EU) 2016/679 as regards the data transfer, as indicated in Annex I.C, shall act as competent supervisory authority.

[Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) and has appointed a representative pursuant to Article 27(1) of Regulation (EU) 2016/679:] The supervisory authority of the Member State in which the representative within the meaning of Article 27(1) of Regulation (EU) 2016/679 is established, as indicated in Annex I.C, shall act as competent supervisory authority.

[Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) without however having to appoint a representative pursuant to Article 27(2) of Regulation (EU) 2016/679:] The supervisory authority of one of the Member States in which the data subjects whose personal data is transferred under these

Clauses in relation to the offering of goods or services to them, or whose behaviour is monitored, are located, as indicated in Annex I.C, shall act as competent supervisory authority.

- (b) The data importer agrees to submit itself to the jurisdiction of and cooperate with the competent supervisory authority in any procedures aimed at ensuring compliance with these Clauses. In particular, the data importer agrees to respond to enquiries, submit to audits and comply with the measures adopted by the supervisory authority, including remedial and compensatory measures. It shall provide the supervisory authority with written confirmation that the necessary actions have been taken.

### **SECTION III – LOCAL LAWS AND OBLIGATIONS IN CASE OF ACCESS BY PUBLIC AUTHORITIES**

#### *Clause 14*

#### **Local laws and practices affecting compliance with the Clauses**

- (a) The Parties warrant that they have no reason to believe that the laws and practices in the third country of destination applicable to the processing of the personal data by the data importer, including any requirements to disclose personal data or measures authorising access by public authorities, prevent the data importer from fulfilling its obligations under these Clauses. This is based on the understanding that laws and practices that respect the essence of the fundamental rights and freedoms and do not exceed what is necessary and proportionate in a democratic society to safeguard one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679, are not in contradiction with these Clauses.
- (b) The Parties declare that in providing the warranty in paragraph (a), they have taken due account in particular of the following elements:
  - (i) the specific circumstances of the transfer, including the length of the processing chain, the number of actors involved and the transmission channels used; intended onward transfers; the type of recipient; the purpose of processing; the categories and format of the transferred personal data; the economic sector in which the transfer occurs; the storage location of the data transferred;
  - (ii) the laws and practices of the third country of destination– including those requiring the disclosure of data to public authorities or authorising access by such authorities – relevant in light of the specific circumstances of the transfer, and the applicable limitations and safeguards (7);

---

<sup>7</sup> As regards the impact of such laws and practices on compliance with these Clauses, different elements may be considered as part of an overall assessment. Such elements may include relevant and documented practical experience with prior instances of requests for disclosure from public authorities, or the absence of such requests, covering a sufficiently representative time-frame. This refers in particular to internal records or other documentation, drawn up on a continuous basis in accordance with due diligence and certified at senior management level, provided that this information can be lawfully shared with third parties. Where this practical experience is relied upon to conclude that the data importer will not be prevented from complying with these Clauses, it needs to be supported by other relevant, objective elements, and it is for the Parties to consider carefully whether these elements together carry sufficient weight, in terms of their reliability and representativeness, to support this conclusion. In particular, the Parties have to take into account whether their practical experience is

- (iii) any relevant contractual, technical or organisational safeguards put in place to supplement the safeguards under these Clauses, including measures applied during transmission and to the processing of the personal data in the country of destination.
- (c) The data importer warrants that, in carrying out the assessment under paragraph (b), it has made its best efforts to provide the data exporter with relevant information and agrees that it will continue to cooperate with the data exporter in ensuring compliance with these Clauses.
- (d) The Parties agree to document the assessment under paragraph (b) and make it available to the competent supervisory authority on request.
- (e) The data importer agrees to notify the data exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under paragraph (a), including following a change in the laws of the third country or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements in paragraph (a).
- (f) Following a notification pursuant to paragraph (e), or if the data exporter otherwise has reason to believe that the data importer can no longer fulfil its obligations under these Clauses, the data exporter shall promptly identify appropriate measures (e.g. technical or organisational measures to ensure security and confidentiality) to be adopted by the data exporter and/or data importer to address the situation. The data exporter shall suspend the data transfer if it considers that no appropriate safeguards for such transfer can be ensured, or if instructed by the competent supervisory authority to do so. In this case, the data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses. If the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise. Where the contract is terminated pursuant to this Clause, Clause 16(d) and (e) shall apply.

#### *Clause 15*

### **Obligations of the data importer in case of access by public authorities**

#### **15.1 Notification**

- (a) The data importer agrees to notify the data exporter and, where possible, the data subject promptly (if necessary with the help of the data exporter) if it:
  - (i) receives a legally binding request from a public authority, including judicial authorities, under the laws of the country of destination for the disclosure of personal data transferred pursuant to these Clauses; such notification shall include information about the personal data requested, the requesting authority, the legal basis for the request and the response provided; or

---

corroborated and not contradicted by publicly available or otherwise accessible, reliable information on the existence or absence of requests within the same sector and/or the application of the law in practice, such as case law and reports by independent oversight bodies.

- (ii) becomes aware of any direct access by public authorities to personal data transferred pursuant to these Clauses in accordance with the laws of the country of destination; such notification shall include all information available to the importer.
- (b) If the data importer is prohibited from notifying the data exporter and/or the data subject under the laws of the country of destination, the data importer agrees to use its best efforts to obtain a waiver of the prohibition, with a view to communicating as much information as possible, as soon as possible. The data importer agrees to document its best efforts in order to be able to demonstrate them on request of the data exporter.
- (c) Where permissible under the laws of the country of destination, the data importer agrees to provide the data exporter, at regular intervals for the duration of the contract, with as much relevant information as possible on the requests received (in particular, number of requests, type of data requested, requesting authority/ies, whether requests have been challenged and the outcome of such challenges, etc.).
- (d) The data importer agrees to preserve the information pursuant to paragraphs (a) to (c) for the duration of the contract and make it available to the competent supervisory authority on request.
- (e) Paragraphs (a) to (c) are without prejudice to the obligation of the data importer pursuant to Clause 14(e) and Clause 16 to inform the data exporter promptly where it is unable to comply with these Clauses.

#### **15.2 Review of legality and data minimisation**

- (a) The data importer agrees to review the legality of the request for disclosure, in particular whether it remains within the powers granted to the requesting public authority, and to challenge the request if, after careful assessment, it concludes that there are reasonable grounds to consider that the request is unlawful under the laws of the country of destination, applicable obligations under international law and principles of international comity. The data importer shall, under the same conditions, pursue possibilities of appeal. When challenging a request, the data importer shall seek interim measures with a view to suspending the effects of the request until the competent judicial authority has decided on its merits. It shall not disclose the personal data requested until required to do so under the applicable procedural rules. These requirements are without prejudice to the obligations of the data importer under Clause 14(e).
- (b) The data importer agrees to document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, make the documentation available to the data exporter. It shall also make it available to the competent supervisory authority on request.
- (c) The data importer agrees to provide the minimum amount of information permissible when responding to a request for disclosure, based on a reasonable interpretation of the request.

#### **SECTION IV – FINAL PROVISIONS**

##### *Clause 16*

##### **Non-compliance with the Clauses and termination**

- (a) The data importer shall promptly inform the data exporter if it is unable to comply with these Clauses, for whatever reason.
- (b) In the event that the data importer is in breach of these Clauses or unable to comply with these Clauses, the data exporter shall suspend the transfer of personal data to the data importer until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 14(f).
- (c) The data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses, where:
  - (i) the data exporter has suspended the transfer of personal data to the data importer pursuant to paragraph (b) and compliance with these Clauses is not restored within a reasonable time and in any event within one month of suspension;
  - (ii) the data importer is in substantial or persistent breach of these Clauses; or
  - (iii) the data importer fails to comply with a binding decision of a competent court or supervisory authority regarding its obligations under these Clauses.

In these cases, it shall inform the competent supervisory authority [for Module Three: and the controller] of such non-compliance. Where the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise.

- (d) Personal data that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall at the choice of the data exporter immediately be returned to the data exporter or deleted in its entirety. The same shall apply to any copies of the data. The data importer shall certify the deletion of the data to the data exporter. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit the return or deletion of the transferred personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law
- (e) Either Party may revoke its agreement to be bound by these Clauses where (i) the European Commission adopts a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 that covers the transfer of personal data to which these Clauses apply; or (ii) Regulation (EU) 2016/679 becomes part of the legal framework of the country to which the personal data is transferred. This is without prejudice to other obligations applying to the processing in question under Regulation (EU) 2016/679.

#### *Clause 17*

##### **Governing law**

These Clauses shall be governed by the law of one of the EU Member States, provided such law allows for third-party beneficiary rights. The Parties agree that this shall be the law of Spain.

#### *Clause 18*

##### **Choice of forum and jurisdiction**

- (a) Any dispute arising from these Clauses shall be resolved by the courts of an EU Member State.

## Standard Contractual Clauses – Module 2

- (b) The Parties agree that those shall be the courts of Spain.
- (c) A data subject may also bring legal proceedings against the data exporter and/or data importer before the courts of the Member State in which he/she has his/her habitual residence.
- (d) The Parties agree to submit themselves to the jurisdiction of such courts.

**ANNEX I – MODULE 2 – NH PROGRAMS**

**A. LIST OF PARTIES**

**Data exporter(s):** [Identity and contact details of the data exporter(s) and, where applicable, of its/their data protection officer and/or representative in the European Union]

1. Name: NH Hotel Group SA

Address: Santa Engracia 120, 28003, Madrid

Contact person's name, position and contact details: [dpo@nh-hotels.com](mailto:dpo@nh-hotels.com)

Activities relevant to the data transferred under these Clauses: Data exporter operates the NH Hotels Reservation System, guest loyalty and marketing programs on its systems, and data importer, as franchisee under the NH brand pursuant to the FA, processes Guest Personal Data for the NH Hotels Loyalty and Marketing Programs, as well as Reservation System data that does not relate to guests of the Hotel, on behalf of data exporter.

Signature and date: .....

Role (controller/processor): controller

**Data importer(s):**

1. Name: Franchisee.

Address: .....

Contact person's name, position and contact details: .....

Activities relevant to the data transferred under these Clauses: Data importer collects and processes Guest Personal Data in data exporter systems for the operation of the Loyalty and Marketing Programs on behalf of data exporter, as well as Reservation System data that does not relate to guests of the Hotel.

Signature and date: .....

Role (controller/processor): processor

**B. DESCRIPTION OF TRANSFER – MODULE 2 – NH PROGRAMS**

**Categories of data subjects whose personal data is transferred**

The categories of recipients that the Franchisee will process as a Data Processor are the following:

Customers.

Potential customers.

**Categories of personal data transferred**

Identification data (name and surnames, NIF/ID Card, address, telephone, signature).

Personal characteristics data (civil status, family data, date of birth, place of birth, age, sex, nationality, native language).

Interests and hobbies data.

Details of employment data (profession, job position).

Commercial information.

Economic, financial and insurance data (bank data, credit history, credit card).

Transaction of goods and services data (goods and services supplied or received, financial transactions, remedies and indemnities).

**Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.**

Not applicable.

**The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).**

Continuous

**Nature of the processing**

Collection, diffusion, recording, amendment, consultation, erasure, retention, storage

**Purpose(s) of the data transfer and further processing:**

Data importer collects and processes Guest Personal Data in data exporter systems for the operation of the NH Hotels guest loyalty and marketing programs on behalf of data exporter, as well as Reservation System data that does not relate to guests of the Hotel for the operation of the Reservation System on behalf of data exporter, and in both cases, management of data protection rights exercised by users / data subjects.

**The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period:**

As set forth in the DPA, once the provision of the Services subject to the FA has been completed, upon termination of the Exhibit for any reason, or when the data exporter so requires, within a maximum period of one (1) month from the date it is duly indicated, data importer undertakes to delete or return, considering the data exporter's election, any information which contains Personal Data that has been given by data exporter to data importer for the provision of the Service, as well as all hard copies or electronic formats or any document which contain Personal Data, without keeping any copy of these or of the information provided or generated.

**For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing**

Not applicable.

**C. COMPETENT SUPERVISORY AUTHORITY**

Identify the competent supervisory authority/ies in accordance with Clause 13

AEPD

C/ Jorge Juan, 6

28001 Madrid, Spain

**ANNEX II - TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA**

**ANNEX III - LIST OF SUB-PROCESSORS**

EXPLANATORY NOTE:

This Annex must be completed for Modules Two and Three, in case of the specific authorisation of sub-processors (Clause 9(a), Option 1).

The controller has authorised the use of the following sub-processors:

1. Name: ...

Address: ...

Contact person's name, position and contact details: ...

Description of processing (including a clear delimitation of responsibilities in case several sub-processors are authorised): ...

**STANDARD CONTRACTUAL CLAUSES – MODULE 4**

**SECTION I**

**1. Purpose and scope**

1.1.1 The purpose of these standard contractual clauses is to ensure compliance with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)<sup>8</sup> for the transfer of personal data to a third country.

1.1.2 The Parties:

1.1.2.1 the natural or legal person(s), public authority/ies, agency/ies or other body/ies (hereinafter “entity/ies”) transferring the personal data, as listed in Annex I.A. (hereinafter each “data exporter”), and

1.1.2.2 the entity/ies in a third country receiving the personal data from the data exporter, directly or indirectly via another entity also Party to these Clauses, as listed in Annex I.A. (hereinafter each “data importer”)

have agreed to these standard contractual clauses (hereinafter: “Clauses”).

1.1.3 These Clauses apply with respect to the transfer of personal data as specified in Annex I.B.

1.1.4 The Appendix to these Clauses containing the Annexes referred to therein forms an integral part of these Clauses.

**dEffect and invariability of the Clauses**

1.1.5 These Clauses set out appropriate safeguards, including enforceable data subject rights and effective legal remedies, pursuant to Article 46(1) and Article 46 (2)(c) of Regulation (EU) 2016/679 and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679, provided they are not modified, except to select the appropriate Module(s) or to add or update information in the Appendix. This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a wider contract and/or to add other clauses or additional

---

<sup>8</sup> Where the data exporter is a processor subject to Regulation (EU) 2016/679 acting on behalf of a Union institution or body as controller, reliance on these Clauses when engaging another processor (sub-processing) not subject to Regulation (EU) 2016/679 also ensures compliance with Article 29(4) of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295 of 21.11.2018, p. 39), to the extent these Clauses and the data protection obligations as set out in the contract or other legal act between the controller and the processor pursuant to Article 29(3) of Regulation (EU) 2018/1725 are aligned. This will in particular be the case where the controller and processor rely on the standard contractual clauses included in Decision 2021/915.

safeguards, provided that they do not contradict, directly or indirectly, these Clauses or prejudice the fundamental rights or freedoms of data subjects.

- 1.1.6 These Clauses are without prejudice to obligations to which the data exporter is subject by virtue of Regulation (EU) 2016/679.

## 2. **Third-party beneficiaries**

- 2.1.1 Data subjects may invoke and enforce these Clauses, as third-party beneficiaries, against the data exporter and/or data importer, with the following exceptions:

- 2.1.1.1 11, Clause 2, Clause 3, Clause 6, Clause 7;

- 2.1.1.2 Clause 8.1(b) and Clause 8.3(b);

- 2.1.1.3 Clause 13;

- 2.1.1.4 Clause 15.1(c), (d) and (e);

- 2.1.1.5 Clause 16(e);

- 2.1.1.6 Clause 18.

- 2.1.2 Paragraph (a) is without prejudice to rights of data subjects under Regulation (EU) 2016/679.

## 3. **Interpretation**

- 3.1.1 Where these Clauses use terms that are defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.

- 3.1.2 These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.

- 3.1.3 These Clauses shall not be interpreted in a way that conflicts with rights and obligations provided for in Regulation (EU) 2016/679.

## 4. **Hierarchy**

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties, existing at the time these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

## 5. **Description of the transfer(s)**

The details of the transfer(s), and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred, are specified in Annex I.B.

**6. Optional - Docking clause**

- 6.1.1 An entity that is not a Party to these Clauses may, with the agreement of the Parties, accede to these Clauses at any time, either as a data exporter or as a data importer, by completing the Appendix and signing Annex I.A.
- 6.1.2 Once it has completed the Appendix and signed Annex I.A, the acceding entity shall become a Party to these Clauses and have the rights and obligations of a data exporter or data importer in accordance with its designation in Annex I.A.
- 6.1.3 The acceding entity shall have no rights or obligations arising under these Clauses from the period prior to becoming a Party.

**SECTION II - OBLIGATIONS OF THE PARTIES**

**7. Data protection safeguards**

The data exporter warrants that it has used reasonable efforts to determine that the data importer is able, through the implementation of appropriate technical and organisational measures, to satisfy its obligations under these Clauses.

**7.1 Instructions**

- 7.1.1 The data exporter shall process the personal data only on documented instructions from the data importer acting as its controller.
- 7.1.2 The data exporter shall immediately inform the data importer if it is unable to follow those instructions, including if such instructions infringe Regulation (EU) 2016/679 or other Union or Member State data protection law.
- 7.1.3 The data importer shall refrain from any action that would prevent the data exporter from fulfilling its obligations under Regulation (EU) 2016/679, including in the context of sub-processing or as regards cooperation with competent supervisory authorities.
- 7.1.4 After the end of the provision of the processing services, the data exporter shall, at the choice of the data importer, delete all personal data processed on behalf of the data importer and certify to the data importer that it has done so, or return to the data importer all personal data processed on its behalf and delete existing copies.

**7.2 Security of processing**

- 7.2.1 The Parties shall implement appropriate technical and organisational measures to ensure the security of the data, including during transmission, and protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access (hereinafter “personal data breach”). In assessing the appropriate level of security, they shall take due account of the state of the art,

the costs of implementation, the nature of the personal data<sup>9</sup>, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subjects, and in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner.

7.2.2 The data exporter shall assist the data importer in ensuring appropriate security of the data in accordance with paragraph (a). In case of a personal data breach concerning the personal data processed by the data exporter under these Clauses, the data exporter shall notify the data importer without undue delay after becoming aware of it and assist the data importer in addressing the breach.

7.2.3 The data exporter shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

### **7.3 Documentation and compliance**

7.3.1 The Parties shall be able to demonstrate compliance with these Clauses.

7.3.2 The data exporter shall make available to the data importer all information necessary to demonstrate compliance with its obligations under these Clauses and allow for and contribute to audits.

## **8. Use of sub-processors**

Not applicable

## **9. Data subject rights**

The Parties shall assist each other in responding to enquiries and requests made by data subjects under the local law applicable to the data importer or, for data processing by the data exporter in the EU, under Regulation (EU) 2016/679.

## **10. Redress**

10.1.1 The data importer shall inform data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a data subject.

## **11. Liability**

11.1.1 Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.

---

<sup>9</sup> This includes whether the transfer and further processing involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions or offences.

- 11.1.2 Each Party shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages that the Party causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter under Regulation (EU) 2016/679.
- 11.1.3 Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.
- 11.1.4 The Parties agree that if one Party is held liable under paragraph (c), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its / their responsibility for the damage.
- 11.1.5 The data importer may not invoke the conduct of a processor or sub-processor to avoid its own liability.

**12. Supervision**

Not applicable

**PUBLIC AUTHORITIES**

**13. Local laws and practices affecting compliance with the Clauses**

*(Where the EU processor combines the personal data received from the third country-controller with personal data collected by the processor in the EU)*

- 13.1.1 The Parties warrant that they have no reason to believe that the laws and practices in the third country of destination applicable to the processing of the personal data by the data importer, including any requirements to disclose personal data or measures authorising access by public authorities, prevent the data importer from fulfilling its obligations under these Clauses. This is based on the understanding that laws and practices that respect the essence of the fundamental rights and freedoms and do not exceed what is necessary and proportionate in a democratic society to safeguard one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679, are not in contradiction with these Clauses.
- 13.1.2 The Parties declare that in providing the warranty in paragraph (a), they have taken due account in particular of the following elements:
- 13.1.2.1 the specific circumstances of the transfer, including the length of the processing chain, the number of actors involved and the transmission channels used; intended onward transfers; the type of recipient; the purpose of processing; the categories and format of the transferred personal data; the economic sector in which the transfer occurs; the storage location of the data transferred;

- 13.1.2.2 the laws and practices of the third country of destination– including those requiring the disclosure of data to public authorities or authorising access by such authorities – relevant in light of the specific circumstances of the transfer, and the applicable limitations and safeguards<sup>10</sup>;
- 13.1.2.3 any relevant contractual, technical or organisational safeguards put in place to supplement the safeguards under these Clauses, including measures applied during transmission and to the processing of the personal data in the country of destination.
- 13.1.3 The data importer warrants that, in carrying out the assessment under paragraph (b), it has made its best efforts to provide the data exporter with relevant information and agrees that it will continue to cooperate with the data exporter in ensuring compliance with these Clauses.
- 13.1.4 The Parties agree to document the assessment under paragraph (b) and make it available to the competent supervisory authority on request.
- 13.1.5 The data importer agrees to notify the data exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under paragraph (a), including following a change in the laws of the third country or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements in paragraph (a).
- 13.1.6 Following a notification pursuant to paragraph (e), or if the data exporter otherwise has reason to believe that the data importer can no longer fulfil its obligations under these Clauses, the data exporter shall promptly identify appropriate measures (e.g. technical or organisational measures to ensure security and confidentiality) to be adopted by the data exporter and/or data importer to address the situation. The data exporter shall suspend the data transfer if it considers that no appropriate safeguards for such transfer can be ensured, or if instructed by the competent supervisory authority to do so. In this case, the data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses. If the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have

---

<sup>10</sup> As regards the impact of such laws and practices on compliance with these Clauses, different elements may be considered as part of an overall assessment. Such elements may include relevant and documented practical experience with prior instances of requests for disclosure from public authorities, or the absence of such requests, covering a sufficiently representative time-frame. This refers in particular to internal records or other documentation, drawn up on a continuous basis in accordance with due diligence and certified at senior management level, provided that this information can be lawfully shared with third parties. Where this practical experience is relied upon to conclude that the data importer will not be prevented from complying with these Clauses, it needs to be supported by other relevant, objective elements, and it is for the Parties to consider carefully whether these elements together carry sufficient weight, in terms of their reliability and representativeness, to support this conclusion. In particular, the Parties have to take into account whether their practical experience is corroborated and not contradicted by publicly available or otherwise accessible, reliable information on the existence or absence of requests within the same sector and/or the application of the law in practice, such as case law and reports by independent oversight bodies.

agreed otherwise. Where the contract is terminated pursuant to this Clause, Clause 16(d) and (e) shall apply.

#### **14. Obligations of the data importer in case of access by public authorities**

*(Where the EU processor combines the personal data received from the third country-controller with personal data collected by the processor in the EU)*

##### **14.1 Notification**

14.1.1 The data importer agrees to notify the data exporter and, where possible, the data subject promptly (if necessary with the help of the data exporter) if it:

14.1.1.1 receives a legally binding request from a public authority, including judicial authorities, under the laws of the country of destination for the disclosure of personal data transferred pursuant to these Clauses; such notification shall include information about the personal data requested, the requesting authority, the legal basis for the request and the response provided; or

14.1.1.2 becomes aware of any direct access by public authorities to personal data transferred pursuant to these Clauses in accordance with the laws of the country of destination; such notification shall include all information available to the importer.

14.1.2 If the data importer is prohibited from notifying the data exporter and/or the data subject under the laws of the country of destination, the data importer agrees to use its best efforts to obtain a waiver of the prohibition, with a view to communicating as much information as possible, as soon as possible. The data importer agrees to document its best efforts in order to be able to demonstrate them on request of the data exporter.

14.1.3 Where permissible under the laws of the country of destination, the data importer agrees to provide the data exporter, at regular intervals for the duration of the contract, with as much relevant information as possible on the requests received (in particular, number of requests, type of data requested, requesting authority/ies, whether requests have been challenged and the outcome of such challenges, etc.).

14.1.4 The data importer agrees to preserve the information pursuant to paragraphs (a) to (c) for the duration of the contract and make it available to the competent supervisory authority on request.

14.1.5 Paragraphs (a) to (c) are without prejudice to the obligation of the data importer pursuant to Clause 14(e) and Clause 16 to inform the data exporter promptly where it is unable to comply with these Clauses.

##### **14.2 Review of legality and data minimisation**

- 14.2.1 The data importer agrees to review the legality of the request for disclosure, in particular whether it remains within the powers granted to the requesting public authority, and to challenge the request if, after careful assessment, it concludes that there are reasonable grounds to consider that the request is unlawful under the laws of the country of destination, applicable obligations under international law and principles of international comity. The data importer shall, under the same conditions, pursue possibilities of appeal. When challenging a request, the data importer shall seek interim measures with a view to suspending the effects of the request until the competent judicial authority has decided on its merits. It shall not disclose the personal data requested until required to do so under the applicable procedural rules. These requirements are without prejudice to the obligations of the data importer under Clause 14(e).
- 14.2.2 The data importer agrees to document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, make the documentation available to the data exporter. It shall also make it available to the competent supervisory authority on request.
- 14.2.3 The data importer agrees to provide the minimum amount of information permissible when responding to a request for disclosure, based on a reasonable interpretation of the request.

#### **SECTION IV – FINAL PROVISIONS**

#### **15. Non-compliance with the Clauses and termination**

- 15.1.1 The data importer shall promptly inform the data exporter if it is unable to comply with these Clauses, for whatever reason.
- 15.1.2 In the event that the data importer is in breach of these Clauses or unable to comply with these Clauses, the data exporter shall suspend the transfer of personal data to the data importer until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 14(f).
- 15.1.3 The data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses, where:
- 15.1.3.1 the data exporter has suspended the transfer of personal data to the data importer pursuant to paragraph (b) and compliance with these Clauses is not restored within a reasonable time and in any event within one month of suspension;
  - 15.1.3.2 the data importer is in substantial or persistent breach of these Clauses;  
or

- 15.1.3.3 the data importer fails to comply with a binding decision of a competent court or supervisory authority regarding its obligations under these Clauses.

In these cases, it shall inform the competent supervisory authority of such non-compliance. Where the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise.

- 15.1.4 Personal data collected by the data exporter in the EU that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall immediately be deleted in its entirety, including any copy thereof. The data importer shall certify the deletion of the data to the data exporter. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit the return or deletion of the transferred personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law.

- 15.1.5 Either Party may revoke its agreement to be bound by these Clauses where (i) the European Commission adopts a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 that covers the transfer of personal data to which these Clauses apply; or (ii) Regulation (EU) 2016/679 becomes part of the legal framework of the country to which the personal data is transferred. This is without prejudice to other obligations applying to the processing in question under Regulation (EU) 2016/679.

## **16. Governing law**

These Clauses shall be governed by the law of a country allowing for third-party beneficiary rights. The Parties agree that this shall be the law of Spain.

## **17. Choice of forum and jurisdiction**

- 17.1.1 Any dispute arising from these Clauses shall be resolved by the courts of Spain.

**APPENDIX**

**ANNEX I – MODULE 4**

**A. LIST OF PARTIES**

**Data exporter(s):** [*Identity and contact details of the data exporter(s) and, where applicable, of its/their data protection officer and/or representative in the European Union*]

1. Name: NH Hotel Group, S.A.

Address: Santa Engracias 120, 28003, Madrid, Spain.

Contact person's name, position and contact details: dpo@nh-hotels.com

Activities relevant to the data transferred under these Clauses: In the case it is foreseen in the FDD, data exporter will provide Property Management Systems to the Franchisee, which may include human resources of the Franchisee employees; development, maintenance and management of systems and applications mentioned in the FA; and management of data protection rights exercised by users / data subjects. The specific services that NH Spain will provide to the Franchisee as data processor are defined in ITEM 6 Brand Services of the FRANCHISE DISCLOSURE AGREEMENT.

Signature and date: ...

Role (controller/processor): Processor

**Data importer(s):** [*Identity and contact details of the data importer(s), including any contact person with responsibility for data protection*]

2. Name:

Address: ...

Contact person's name, position and contact details: ...

Activities relevant to the data transferred under these Clauses: In the case it is foreseen in the FDD, data importer has engaged data exporter to provide Property Management Systems to the Franchisee, which may include human resources of the Franchisee employees; development, maintenance and management of systems and applications mentioned in the FA; and management of data protection rights exercised by users / data subjects. The specific services that NH Spain will provide to the Franchisee as data processor are defined in ITEM 6 Brand Services of the FRANCHISE DISCLOSURE AGREEMENT.

Signature and date: ...

Role (controller/processor): Controller

**B. DESCRIPTION OF TRANSFER – MODULE 4 – PROPERTY MANAGEMENT SERVICES**

*Categories of data subjects whose personal data is transferred*

The categories of recipients that NH Spain will process as a Processor are the following:

- Customers.
- Suppliers.
- Contact people.
- Employees (in the case it is foreseen in the FA).
- Candidates who participate in recruiting processes (in the case it is foreseen in the FA).

*Categories of personal data transferred*

- Identification data (name and surnames, NIF/ID Card, Social Security number/Mutuality, address, telephone, signature, finger print, image/voice, electronic signature, other biometric data).
- Personal characteristics data (civil status, family data, date of birth, place of birth, age, sex, nationality, native language,).
- Interests and hobbies data.
- Academic and professional data (training/qualifications, student's records, professional experience, membership of colleges or professional associations).
- Details of employment data (profession, job position).
- Commercial information data.
- Economic, financial and insurance data (bank data, pension and retirement plans, economic payroll data, tax deductions and taxes data, insurance, mortgages, subsidies and benefits, credit history, credit card).
- Transaction of goods and services data (goods and services supplied by the affected party, goods and services received by the affected party, financial transactions, remedies and indemnities).

*Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.*

*Not applicable.*

*The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).*

*Continuous.*

*Nature of the processing*

The provision of the contracted services implies the performance by NH Spain as the Processor of the following processing:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Collection   | <input type="checkbox"/> Diffusion            |
| <input checked="" type="checkbox"/> Recording    | <input checked="" type="checkbox"/> Amendment |
| <input checked="" type="checkbox"/> Consultation | <input checked="" type="checkbox"/> Erasure   |
| <input checked="" type="checkbox"/> Retention    | <input checked="" type="checkbox"/> Storage   |

*Purpose(s) of the data transfer and further processing*

In the case it is foreseen in the FA, human resources of the Franchisee employees; development, maintenance and management of systems and applications mentioned in the FA between the parties; management of data protection rights exercised by users / data subjects. The specific services that NH Spain will provide to the Franchisee as data processor are defined in ITEM 6 Brand Services of the FRANCHISE DISCLOSURE AGREEMENT.

*The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period*

During the contractual relationship between the data importer and the data exporter and, after its conclusion, for the duration of any relevant statute of limitation.

*For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing*

**EXHIBIT C**

**STATE ADMINISTRATORS/AGENTS FOR SERVICE OF PROCESS**

**STATE AGENCIES/AGENTS  
FOR SERVICE OF PROCESS**

Listed here are the names, addresses and telephone numbers of the state agencies having responsibility for the franchising disclosure/registration laws. We may not yet be registered to sell franchises in any or all of these states.

If a state is not listed, we have not appointed an agent for service of process in that state in connection with the requirements of the franchise laws. There may be states in addition to those listed below in which we have appointed an agent for service of process.

There also may be additional agents appointed in some of the states listed.

**CALIFORNIA**

Website: [www.dfpi.ca.gov](http://www.dfpi.ca.gov)  
Email: [ask.DFPI@dfpi.ca.gov](mailto:ask.DFPI@dfpi.ca.gov)

Commissioner of Department of Financial  
Protection & Innovation  
Department of Financial Protection &  
Innovation  
Toll Free: 1 (866) 275-2677

***Los Angeles***

320 West 4<sup>th</sup> Street, Suite 750  
Los Angeles, California 90013-2344  
(213) 576-7500

***Sacramento***

2101 Arena Boulevard  
Sacramento, California 95834  
(866) 275-2677

***San Diego***

1455 Frazee Road, Suite 315  
San Diego, California 92108  
(619) 525-4233

***San Francisco***

One Sansome Street, Suite 600  
San Francisco, California 94104-4428  
(619) 972-8559

**HAWAII**

(for service of process)

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

(for other matters)

Commissioner of Securities  
Department of Commerce  
and Consumer Affairs  
Business Registration Division  
335 Merchant Street, Room 205  
Honolulu, Hawaii 96813  
(808) 586-2722

**ILLINOIS**

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

**INDIANA**

(for service of process)

Indiana Secretary of State  
201 State House  
200 West Washington Street  
Indianapolis, Indiana 46204  
(317) 232-6531

(state agency)

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

**MARYLAND**

(for service of process)

Maryland Securities Commissioner  
at the Office of Attorney General-  
Securities Division  
200 St. Paul Place  
Baltimore, Maryland 21202-2021  
(410) 576-6360

(state agency)

Office of the Attorney General-  
Securities Division  
200 St. Paul Place  
Baltimore, Maryland 21202-2021  
(410) 576-6360

**MICHIGAN**

Michigan Attorney General's Office  
Consumer Protection Division  
Attn: Franchise Section  
G. Mennen Williams Building, 1st Floor  
525 West Ottawa Street  
Lansing, Michigan 48933  
(517) 335-7567

**MINNESOTA**

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

**NEW YORK**

(for service of process)

Attention: New York Secretary of State  
New York Department of State  
One Commerce Plaza,  
99 Washington Avenue, 6<sup>th</sup> Floor  
Albany, New York 12231-0001  
(518) 473-2492

(Administrator)

NYS Department of Law  
Investor Protection Bureau  
28 Liberty Street, 21<sup>st</sup> Floor  
New York, New York 10005  
(212) 416-8236

**NORTH DAKOTA**

(for service of process)

Securities Commissioner  
North Dakota Securities Department  
600 East Boulevard Avenue  
State Capitol, Fourteenth Floor, Dept. 414  
Bismarck, North Dakota 58505-0510  
(701) 328-4712

(state agency)

North Dakota Securities Department  
600 East Boulevard Avenue, Suite 414  
State Capitol, Fourteenth Floor, Dept. 414  
Bismarck, North Dakota 58505  
(701) 328-2910

**OREGON**

Oregon Division of Financial Regulation  
350 Winter Street NE, Suite 410  
Salem, Oregon 97301  
(503) 378-4140

**RHODE ISLAND**

Securities Division  
Department of Business Regulations  
1511 Pontiac Avenue  
John O. Pastore Complex-Building 69-1  
Cranston, Rhode Island 02920  
(401) 462-9500

**SOUTH DAKOTA**

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

**VIRGINIA**

(for service of process)

Clerk, State Corporation Commission  
1300 East Main Street  
First Floor  
Richmond, Virginia 23219  
(804) 371-9733

(for other matters)

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

**WASHINGTON**

(for service of process)

Director Department of Financial Institutions  
Securities Division  
150 Israel Road SW  
Tumwater, Washington 98501  
(360) 902-8760

(for other matters)

Department of Financial Institutions  
Securities Division  
P. O. Box 41200  
Olympia, Washington 98504-1200  
(360) 902-8760

**WISCONSIN**

(for service of process)

Administrator, Division of Securities  
Department of Financial Institutions  
4822 Madison Yards Way, North Tower  
Madison, Wisconsin 53705  
(608) 266-2139

(state administrator)

Division of Securities  
Department of Financial Institutions  
4822 Madison Yards Way, North Tower  
Madison, Wisconsin 53705  
(608) 266-9555

## EXHIBIT D

### OPERATIONS MANUAL TABLE OF CONTENTS

#### NH MANUALS

**1. Technical Guides – Total Pages: 595 Pages**

- NH Guides Rendering (16 pages)
- NH Guides Rooms & Corridors (53 pages)
- NH Guides Signage (51 pages)
- NH Engineering Manual (181 pages)
- NH Public Areas (294 pages)

**2. Brand Guides – Total Pages: 626**

- Brand Naming Guidelines (6 pages)
- Brand Book and Brand Presentation (205 pages)
- Brand Corporate Identity Manual (143 pages)
- Brand Stationary list and Brand Mk, Product Print Guidelines (Excel Doc.)
- Brand Master Marketing Plan (75 pages)
- Brand Photography & Videos Guidelines (100 pages)
- Brand Concepts Guidelines (42 pages)
- Social Media Guidelines and Policy (6 pages)
- Brand PR Guidelines (49 pages)

**3. Key Principles of Service – Total Pages: 45 Pages**

- Objectives (2 pages)
- Target Employees (2 pages)
- General Considerations (31 pages)
- The Golden Rules of Service: Key Interactions (10 pages)

**4. Quality Assessment Checklist – Total Pages: 1 Page**

**5. Standards Manual – Total Pages: 74 pages**

- **Soft Standards (26 pages)**
  - Room
  - Bathroom
  - Common Areas
- **Uniforms (7 pages)**
- **Service Standards (7 pages)**
  - Laundry services
  - Front Office Services
  - Kids at NH
- **F&B Standards (25 pages)**
  - Breakfast
  - Room Service
  - Restaurant & Bar

- F&B Timetables
- **Conference Standards (9 pages)**
  - Conference Room Set Up
  - F&B Conference Standards

**TOTAL PAGES: 1,341**

**EXHIBIT E**  
**LIST OF BRAND HOTEL FRANCHISEES**

NONE

**EXHIBIT F**

**LIST OF FRANCHISEES WHO LEFT THE SYSTEM**

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

NONE

## **EXHIBIT G**

### **STATE-SPECIFIC ADDITIONAL DISCLOSURES AND RIDERS**

#### **NO WAIVER OR DISCLAIMER OF RELIANCE IN CERTAIN STATES**

The following provision applies only to franchisees and franchises that are subject to the state franchise registration/disclosure laws in California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, or Wisconsin:

No statement, questionnaire, or acknowledgement signed or agreed to by you in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by us, any franchise seller, or any other person acting on our behalf. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDITIONAL DISCLOSURES FOR THE  
FRANCHISE DISCLOSURE DOCUMENT OF  
NH HOTELS USA FRANCHISE INC.**

The following are additional disclosures for the Franchise Disclosure Document of **NH HOTELS USA FRANCHISE INC.** required by various state franchise laws. Each provision of these additional disclosures will not apply unless, with respect to that provision, the jurisdictional requirements of the applicable state franchise registration and disclosure law are met independently without reference to these additional disclosures.

**NEW YORK**

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

INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT C OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 28 LIBERTY STREET, 21<sup>ST</sup> FLOOR, NEW YORK, NEW YORK 10005.

THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.

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

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

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

- B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.
- C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10-year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud, or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.
- D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

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

Neither the franchisor, its affiliate, its predecessor, officers, or general partner during the 10-year period immediately before the date of the offering circular:

- (a) filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code;
- (b) obtained a discharge of its debts under the U.S. Bankruptcy Code; or
- (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after that officer or general partner of the franchisor held this position in the company or partnership.

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

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

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

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

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

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

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

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

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

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

**THE FOLLOWING PAGES IN THIS EXHIBIT ARE  
STATE-SPECIFIC RIDERS TO THE  
FRANCHISE AGREEMENT**

**RIDER TO THE NH HOTELS USA FRANCHISE INC.  
FRANCHISE AGREEMENT  
FOR USE IN NEW YORK**

**THIS RIDER** is made and entered by and between **NH HOTELS USA FRANCHISE INC.**, a corporation organized under the laws of Delaware with its principal business address at 22 East 38<sup>th</sup> Street, New York, New York 10016 (“**Franchisor**”) and \_\_\_\_\_, a \_\_\_\_\_ organized under the laws of \_\_\_\_\_ with its principal business address at \_\_\_\_\_ (“**Franchisee**”) for the Brand Hotel identified in this Rider.

1. **BACKGROUND.** We and you are parties to that certain Franchise Agreement dated \_\_\_\_\_ (the “Franchise Agreement”). This Rider is being signed because (a) you are a resident of New York and the NH HOTEL you will operate under the Franchise Agreement will be located in New York, and/or (b) any of the franchise offer or sales activity occurred in New York.

2. **RELEASES.** The following language is added to the end of Sections 3.4 and 12.3(e) of the Franchise Agreement:

Notwithstanding the foregoing, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of the proviso that the non-waiver provisions of GBL 687 and 687.5 be satisfied.

3. **TRANSFER BY US.** The following language is added to the end of Section 12.1 of the Franchise Agreement:

However, to the extent required by applicable law, no transfer will be made except to an assignee who, in our good faith judgment, is willing and able to assume our obligations under this Agreement.

5. **GOVERNING LAW/CONSENT TO JURISDICTION.** The following language is added at the end of Sections 22.1 and 22.5 of the Franchise Agreement:

However, to the extent required by Article 33 of the General Business Law of the State of New York, this Section shall not be considered a waiver of any right conferred upon you by the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder.

6. **LIMITATION OF CLAIMS.** The following sentence is added to the end of Section 22.8 of the Franchise Agreement:

To the extent required by Article 33 of the General Business Law of the State of New York, all rights and any causes of action arising in your favor from the

provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this provision that the non-waiver provisions of GBL Sections 687.4 and 687.5 be satisfied.

7. **TERMINATION BY YOU.** The following language is added as new Section 24 of the Franchise Agreement:

24. **Termination by You.** You may terminate this Agreement on any grounds available by law under the provisions of Article 33 of the General Business Law of the State of New York.

**IN WITNESS WHEREOF**, the parties have executed and delivered this Rider, to be effective as of the date set forth next to our signature below.

**FRANCHISEE**

\_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**FRANCHISOR**

**NH HOTELS USA FRANCHISE INC.**, a Delaware company

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**NEW YORK REPRESENTATIONS PAGE**

**FRANCHISOR REPRESENTS THAT THIS FRANCHISE DISCLOSURE DOCUMENT DOES NOT KNOWINGLY OMIT ANY MATERIAL FACT OR CONTAIN ANY UNTRUE STATEMENT OF A MATERIAL FACT.**

## State Effective Dates

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, and Wisconsin.

This document is effective and may be used in the following states, where the document is filed, registered or exempt from registration, as of the Effective Date stated below:

<b>State</b>	<b>Effective Date</b>
New York	Pending

Other states may require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

## RECEIPT

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If NH HOTELS USA FRANCHISE INC. offers you a franchise, it must provide this disclosure document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale. **[New York requires that we provide you with this disclosure document at the earlier of the first personal meeting or ten business days before you sign a binding agreement with, or make payment to, us or one of our affiliates in connection with the proposed sale. Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.]**

If NH HOTELS USA FRANCHISE INC. does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C., 20580 and the appropriate state agency identified in Exhibit C.

The franchisor is NH HOTELS USA FRANCHISE INC. located at Santa Engracia, 120, 7th Floor, Madrid, 28003, Spain.

The franchise seller(s) for this offering are:  Yuan Fang and  \_\_\_\_\_ with a principal business address of Santa Engracia, 120, 7th Floor, Madrid, 28003, Spain; +34 91 396 05 43 Ext 1543, or +34 670 57 19 41.

Issuance Date: March 14, 2024.

NH HOTELS USA FRANCHISE INC. authorizes the respective state agents identified on Exhibit C to receive service of process for it in the particular states. I received a disclosure document dated as of March 14, 2024, that included the following Exhibits:

Exhibit A	Financial Statements
Exhibit B-1	Franchise Application
Exhibit B-2	Franchise Agreement
Exhibit B-3	Statement of Services Agreement (NH Discovery Loyalty Program)
Exhibit B-4	Data Protection Agreement
Exhibit C	State Administrators/Agents for Service of Process
Exhibit D	Operating Manual Table of Contents
Exhibit E	List of Franchisees
Exhibit F	List of Franchisees Who Left the System
Exhibit G	State-Specific Additional Disclosures and Riders

\_\_\_\_\_  
Date

\_\_\_\_\_  
Prospective Franchisee Name

\_\_\_\_\_  
Authorized Signature

## RECEIPT

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If NH HOTELS USA FRANCHISE INC. offers you a franchise, it must provide this disclosure document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale. **[New York requires that we provide you with this disclosure document at the earlier of the first personal meeting or ten business days before you sign a binding agreement with, or make payment to, us or one of our affiliates in connection with the proposed sale. Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.]**

If NH HOTELS USA FRANCHISE INC. does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C., 20580 and the appropriate state agency identified in Exhibit C.

The franchisor is NH HOTELS USA FRANCHISE INC. located at Santa Engracia, 120, 7th Floor, Madrid, 28003, Spain.

The franchise seller(s) for this offering is/are: Yuan Fang and/or \_\_\_\_\_  
with a principal business address of Santa Engracia, 120, 7th Floor, Madrid, 28003, Spain;  
+34 91 396 05 43 Ext 1543, or +34 670 57 19 41.

Issuance Date: March 14, 2024.

NH HOTELS USA FRANCHISE INC. authorizes the respective state agents identified on Exhibit C to receive service of process for it in the particular states. I received a disclosure document dated as of March 14, 2024, that included the following Exhibits:

Exhibit A	Financial Statements
Exhibit B-1	Franchise Application
Exhibit B-2	Franchise Agreement
Exhibit B-3	Statement of Services Agreement (NH Discovery Loyalty Program)
Exhibit B-4	Data Protection Agreement
Exhibit C	State Administrators/Agents for Service of Process
Exhibit D	Operating Manual Table of Contents
Exhibit E	List of Franchisees
Exhibit F	List of Franchisees Who Left the System
Exhibit G	State-Specific Additional Disclosures and Riders

\_\_\_\_\_  
Date

\_\_\_\_\_  
Prospective Franchisee Name

\_\_\_\_\_  
Authorized Signature