

MINUTES OF THE DECEMBER 18, 2025 SPECIAL-CALLED MEETING  
OF THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ALABAMA

The Board of Trustees of The University of Alabama held a special-called meeting by video conference on Thursday, December 18, 2025. President pro tempore Scott M. Phelps chaired the meeting. Mark D. Foley, Jr., served as Secretary.

On roll call, the following Trustees were present:

The Honorable Angus R. Cooper III, Trustee from  
the First Congressional District;

The Honorable Harris V. Morrissette, Trustee from  
the First Congressional District;

The Honorable W. Davis Malone III, Trustee from  
the Second Congressional District;

The Honorable J. Steven Roy, Trustee from  
the Third Congressional District;

The Honorable Kenneth L. Vandervoort, M.D., Trustee from  
the Third Congressional District;

The Honorable Scott M. Phelps, President pro tempore and Trustee  
from the Fourth Congressional District;

The Honorable Evelyn VanSant Mauldin, Trustee from  
the Fourth Congressional District;

The Honorable Ronald W. Gray, Trustee from  
the Fifth Congressional District;

The Honorable Jeff Gronberg, Trustee from  
the Fifth Congressional District;

The Honorable O.B. Grayson Hall, Jr., Trustee from  
the Sixth Congressional District;

The Honorable Karen P. Brooks, Trustee from  
the Seventh Congressional District;

The meeting was also attended by UA System Chancellor Sid J. Trant; UA System General Counsel and Senior Vice Chancellor John Daniel; UA System Senior Vice Chancellor for Finance and Administration Dr. Dana Keith; UA System Senior Vice Chancellor for Academic and Student Affairs Dr. Tonjanita Johnson; UA President Dr. Peter J. Mohler; UAB President Ray L. Watts, M.D.; UAH President Dr. Charles L. Karr; UAB Health System Authority CEO Dawn Bulgarella; and support staff from the System Office, the three campuses, and the UAB Health System. The Honorable Mike Brock, Trustee from the Second Congressional District; The Honorable Myla E. Calhoun, Trustee from the Sixth Congressional District; The Honorable Barbara Humphrey, Trustee from the Seventh Congressional District; and The Honorable Kenneth O. Simon, Trustee from the Seventh Congressional District, were unable to attend.

Pro tem Phelps stated that the meeting was called in accordance with Section 16-47-32 of the Code of Alabama and pursuant to a written application, with which he concurred, from Trustees Simon, Mauldin, and Morrissette that read as follows:

November 25, 2025

Scott M. Phelps  
500 University Blvd. E.  
Tuscaloosa, AL 35401

President Pro Tempore:

Pursuant to Article II, Section II of the Bylaws of the Board of Trustees of the University of Alabama, we request a virtual meeting on Thursday, December 18, 2025, at 9:00 a.m. to consider the following items:

**Finance Items:**

- Consideration of Approving Amendment of Board Rule 406
- Consideration of Resolution Updating Signature Authority at UA
- Consideration of Resolution Approving the Revised FY26 Budget at UAB
- Consideration of Resolution Approving Creation of New Operating Account for

- UAB Southview, LLC
- Consideration of Resolution Approving Signatories for UAB Southview, LLC New Operating Account
- Consideration of Resolution Approving Creation of New Operating Account for UAB STV Orthopedics, LLC
- Consideration of Resolution Approving Signatories for UAB STV Orthopedics, LLC New Operating Account
- Consideration of Resolution Approving Irrevocable Standby Letter of Credit and Pledge of Operating Account
- Consideration of Resolution Authorizing Continuation of the Tennessee Resident Scholarship Pilot Program at UAH

**Physical Properties Items:**

- Consideration of Resolution approving the acceptance of gift property; granting authorization to execute a Real Estate Sales Agreement for the disposition of the Miller Gift Property
- Consideration of Resolution approving the procurement and installation of Alcon Unity Surgical Systems at University Hospital - Callahan Eye
- Consideration of Resolution approving the revised project budget for the UAB St. Vincent's Capital Equipment Acquisition Plan
- Consideration of Resolution granting authorization to execute the Courtyard by Marriott Renewal Franchise Agreement

**Academic Affairs and Student Affairs Item:**

- Consideration of Resolution Approving Changes to Test-Optional Pilot Program for UA System Campuses

**Administrative Action Items:**

- Consideration of Resolution Approving Formation of UAB Southview, LLC
- Consideration of Resolution Approving Formation of UAB Orthopedics, LLC
- Consideration of Resolution Reaffirming the Mission Statement for The University of Alabama in Huntsville

Respectfully,

The Honorable Kenneth Simon, Trustee from the Seventh Congressional District  
The Honorable Evelyn VanSant Mauldin, Trustee from the Fourth Congressional District  
The Honorable Harris Morrissette, Trustee from the First Congressional District

cc: Chancellor Sid J. Trant

Pro tem Phelps explained that notice of the special meeting was sent to each member of the Board.

UA System Vice Chancellor for System Communications Lynn Cole introduced Williesha Morris, *Al.com*. She also welcomed any additional members of the media or the public who were viewing the meeting by livestream.

Pro tem Phelps also welcomed those viewing the livestream.

Pro tem Phelps asked if there were any objections to the adoption of the agenda as presented. Hearing none, the agenda was unanimously adopted.

Pro tem Phelps noted a consent agenda was provided in advance of the meeting for review by the Board. Pro tem Phelps called for a motion to approve the items on the consent agenda. Trustee Malone moved to approve the consent agenda, and the motion was duly seconded. Pro tem Phelps asked if there were any questions or comments. Hearing none, Pro tem Phelps then called for a vote, and the Board unanimously approved the items on the consent agenda.

#### Approving Update of Signature Authority at UA

#### RESOLUTION

BE IT RESOLVED by The Board of Trustees of The University of Alabama that Dr. Peter J. Mohler, as President; Dr. Lesley Reid, as Interim Provost; Dr. Daniel T. Layzell, as Vice President for Finance and Operations and Treasurer; Mr. Chad Tindol, as Chief Administrative Officer; Ms. Julie Shelton, as Senior Associate Vice President for Finance; and Ms. Cheryl Mowdy, as Senior Associate Vice President for Operations; and as officials of The University of Alabama, are each authorized to act for and in the name of The Board of Trustees of The University of Alabama in negotiating and executing any and all contracts, agreements, instruments, reports or other documents as necessary in furtherance of the mission of The University of Alabama and the goals and objectives of The Board of Trustees of The University of Alabama.

BE IT FURTHER RESOLVED that Dr. Bryan Boudouris, as Vice President for Research and Economic Development; Ms. Lauren Wilson, as Associate Vice President for Research and Innovation; and Ms. Jennifer Camp, as Senior Associate Vice President for

Research Administration, are authorized to act for and in the name of the Board of Trustees of The University of Alabama in making application for and negotiating and executing contract or grant agreements with any agency of local, state, national or foreign government, foundation, corporation, or individual with regard to research, instructional, and service contracts and grants, in furnishing necessary reports or other instruments in connection therewith. Ms. Julie Shelton is further authorized to designate in writing an appropriate number of staff in the Office of Contract and Grant Accounting who are authorized to bind the University for the limited purpose of submitting official invoices, draws, and other financial information to federal agencies but only to the extent such authority is required by the regulations of the federal Office of Management and Budget.

BE IT FURTHER RESOLVED that Ms. Nichole Cavin, as Executive Director of the Office for Sponsored Programs, is authorized to act for and in the name of the Board of Trustees of The University of Alabama in making application for contract and grant agreements with any agency of local, state, national, or foreign government, foundation, corporation, or individual with regard to research, instructional, and service contracts and grants, in furnishing necessary reports or other instruments in connection therewith.

BE IT FURTHER RESOLVED that Mr. Kevin Stevens, Executive Director of Procurement Services, is authorized to execute agreements on behalf of the University for the limited purpose of purchasing goods or services below \$50,000 and for permissive use agreements for use and occupancy of University facilities and spaces.

BE IT FURTHER RESOLVED that any two of the following four officials, Dr. Peter J. Mohler, Dr. Daniel T. Layzell, Ms. Julie Shelton, and Ms. Cheryl Mowdy be, and hereby are, authorized for and in the name of the said Board, a corporation, to sell at public or private sale or exchange any or all shares of stock, bonds or private sale, or exchange any or all shares of stock, bonds or securities, in any corporation, association, trust, municipal corporation, or government which may now or hereafter stand in the name of The Board of Trustees of The University of Alabama for The University of Alabama, Tuscaloosa, Alabama, or in its name and in the name of others received in exchange, and in the name of The Board of Trustees of The University of Alabama to sign any transfers, assignments or powers of attorney that may be necessary to make the transfer or exchange, and to deliver the same, together with the stock or securities sold or exchanged, to the transferee, or his agents.

BE IT FURTHER RESOLVED that all previous resolutions granting any of the foregoing powers of authority be, and hereby are, rescinded.

Approving the Formation of UAB Southview, LLC

#### RESOLUTION

WHEREAS, The Board of Trustees of The University of Alabama (“UA Board”) is the sponsoring university for the UAB St. Vincent’s Health System Authority (the “Authority”) under the provisions of the University Authority Act of 2016, Ala. Code § 16-17A-1, *et seq.*; and

WHEREAS, the Authority is the sole owner of UAB St. Vincent's Health System (the "System"), the System is the sole owner of Universal Health Services ("Universal"), and Universal is the sole owner of UAB Southview, LLC (the "Group"); and

WHEREAS, Universal, in its capacity as the corporate member of Group, proposes the approval of the Group's Certificate of Formation (the "Group Certificate"), attached to this resolution as *Exhibit A*; and

WHEREAS, the Board of Directors of the System and the Authority have approved the Group Certificate, and recommended approval of the same to the UAB Health System Authority; and

WHEREAS, the UAB Health System Authority has approved the Group Certificate, and recommended approval of the same to the UA Board; and

WHEREAS, the UA Board has reviewed the contents of the Group Certificate and believes that it is desirable to approve the Group Certificate in a form that is the same as or substantially similar to that which is attached hereto as *Exhibit A*;

NOW, THEREFORE, BE IT RESOLVED BY THE UA BOARD, that the UA Board does hereby approve the Group Certificate in a form that is the same as or substantially similar to that which is attached hereto as Exhibit A.

RESOLVED FURTHER, that any officer of Group is authorized to execute and deliver or cause to be executed and delivered in the name and on behalf of Group such articles, certificates, agreements, or other instruments as they or any of them may deem necessary, advisable, or appropriate in order to carry into effect the intent of the provisions of this resolution.

#### Approving the Formation of UAB STV Orthopedics, LLC

#### RESOLUTION

WHEREAS, The Board of Trustees of The University of Alabama ("UA Board") is the sponsoring university for the UAB St. Vincent's Health System Authority (the "Authority") under the provisions of the University Authority Act of 2016, Ala. Code § 16-17A-1, *et seq.*; and

WHEREAS, the Authority is the sole owner of UAB St. Vincent's Health System (the "System"), the System is the sole owner of Universal Health Services ("Universal"), and Universal is the sole owner of UAB STV Orthopedics, LLC (the "Group"); and

WHEREAS, Universal, in its capacity as the corporate member of Group, proposes the approval of the Group's Certificate of Formation (the "Group Certificate"), attached to this resolution as *Exhibit B*; and

WHEREAS, the Board of Directors of the System and the Authority have approved the Group Certificate, and recommended approval of the same to the UAB Health System Authority; and

WHEREAS, the UAB Health System Authority has approved the Group Certificate, and recommended approval of the same to the UA Board; and

WHEREAS, the UA Board has reviewed the contents of the Group Certificate and believes that it is desirable to approve the Group Certificate in a form that is the same as or substantially similar to that which is attached hereto as *Exhibit B*;

NOW, THEREFORE, BE IT RESOLVED BY THE UA BOARD, that the UA Board does hereby approve the Group Certificate in a form that is the same as or substantially similar to that which is attached hereto as Exhibit B.

RESOLVED FURTHER, that any officer of Group is authorized to execute and deliver or cause to be executed and delivered in the name and on behalf of Group such articles, certificates, agreements, or other instruments as they or any of them may deem necessary, advisable, or appropriate in order to carry into effect the intent of the provisions of this resolution.

Approving Reaffirmation of the Mission Statement for The University of Alabama in Huntsville

#### RESOLUTION

WHEREAS, the mission of The University of Alabama in Huntsville is teaching, research and service; and

WHEREAS, The University of Alabama in Huntsville created a Mission Statement to serve as a guiding statement for students, faculty and staff; and

WHEREAS, the Mission Statement is: The University of Alabama in Huntsville is an internationally recognized, comprehensive research-intensive university that produces important discoveries, provides an outstanding education, and serves the workforce needs of Redstone Arsenal, the greater Huntsville area, the state and beyond. Our mission is to explore, discover, create and transfer knowledge, and to educate students from diverse backgrounds in leadership, innovation, inclusivity, critical thinking and civic responsibility, while inspiring a passion for learning.

NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees of The University of Alabama endorses, approves and reaffirms the Mission Statement for The University of Alabama in Huntsville.

Pro tem Phelps said there were eight items of Finance Committee business before the Board: one UAS item, one UAB item, five UABHS items, and one UAH item. Prior to opening the floor for discussion, Pro tem Phelps called for a motion to consider the UA System item. On the motion of Trustee Hall, duly seconded, the Board opened discussion on the UA System item.

Pro tem Phelps recognized Dr. Keith to present the item and respond to any questions.

Dr. Keith presented a resolution amending Board Rule 406 and asked for the Board's favorable consideration of the resolution.

Pro tem Phelps thanked Dr. Keith for her presentation and asked if there were any questions or comments from the Board. Hearing none, Pro tem Phelps called for a vote to approve the UA System resolution, and the Board unanimously approved the resolution.

#### Approving Amendment of Board Rule 406

#### RESOLUTION

WHEREAS, Board Rule 107 permits amendments to any Board Rule of the Board of Trustees of the University of Alabama "at any duly organized and called Board meeting by a majority of those attending";

NOW, THEREFORE, BE IT RESOLVED that Board Rule 406 is hereby amended to the version attached hereto as Exhibit C.

The next item was consideration of a resolution approving the revised Fiscal Year 2026 Annual Operating Budget for UAB. Prior to opening the floor for discussion, Pro tem Phelps called for a motion to consider the item. On the motion of Trustee Brooks, duly seconded, the Board opened discussion on the resolution. Pro tem Phelps recognized Dr. Keith to present the UAB item and respond to any questions.

Dr. Keith presented the item and asked for the Board's favorable consideration of the resolution.

Pro tem Phelps asked if there were any questions or comments from the Board. Hearing none, Pro tem Phelps called for a vote to approve the item, and the Board unanimously approved the UAB resolution.

### Approving the Revised Fiscal Year 2026 Annual Operating Budget for UAB

#### RESOLUTION

WHEREAS, Board Rule 410 requires the "campus(es), hospital and system office" to present annual operating budget proposals to The Board of Trustees of The University of Alabama ("Board of Trustees") for approval; and

WHEREAS, the Board of Trustees reviewed and approved the proposed operating budget for The University of Alabama System and each of its operating divisions: The University of Alabama, The University of Alabama at Birmingham, The University of Alabama Hospital, The University of Alabama in Huntsville, and the University of Alabama System Office, for fiscal year 2026 at the September 2025 Board Meeting; and

WHEREAS, given uncertainty in federal funding at the time the original budgets were developed and proposed, UAB's original budget did not include employee merit raises to ensure the prudent management of financial resources; and

WHEREAS, with the benefit of more certainty in federal funding, UAB has reassessed its financial position and now considers it appropriate to fund employee merit raises effective January 1, and recommends adoption of a revised budget;

NOW, THEREFORE, BE IT RESOLVED, by The Board of Trustees of The University of Alabama that the proposed revised operating budget for FY 2026 for UAB, presented to the Finance Committee and distributed to all Board members, and to be maintained on file with the Secretary of the Board of Trustees, is hereby adopted.

The next five items were UAB Health System resolutions. Prior to opening the floor for discussion, Pro tem Phelps called for a motion to consider the five items collectively. On the motion of Trustee Hall, duly seconded, the Board opened discussion on the resolutions.

Pro tem Phelps recognized Dr. Keith to present the UAB Health System items and respond to any questions.

Dr. Keith presented the first Health System item, consideration of resolution approving creation of new operating account for UAB Southview, LLC. and asked the Board's favorable consideration of the resolution.

Pro tem Phelps asked if there were any questions or comments from the Board. There were none.

Dr. Keith presented the five UAB Health System items and asked for the Board's favorable consideration of the resolutions.

Pro tem Phelps asked if there were any questions or comments from the Board. There were none. Pro tem Phelps then called for a vote to approve the five items collectively, and the Board unanimously approved the UAB Health System resolutions.

#### Approving Creation of New Operating Account for UAB Southview, LLC

#### RESOLUTION

WHEREAS, UAB Southview, LLC desires to create, maintain, and establish an account of the nature hereinafter described with Regions Bank for the deposit of certain funds under its control; and

WHEREAS, Regions Bank previously has been approved as a depository for University funds by resolution of The Board of Trustees of The University of Alabama and, as such approved depository, agrees to and accepts the creation, maintenance, and administration of the hereinafter described account upon the terms and conditions hereinafter specified;

NOW, THEREFORE, BE IT RESOLVED that The Board of Trustees of The University of Alabama does hereby authorize the opening, establishment, maintenance, and administration of the following designated account with Regions Bank for the following purpose and upon the following terms and conditions:

1. The name of the account shall be "UAB Southview, LLC Operating Account";

2. The account shall be an operating account for short term deposit of any excess operating funds of UAB Southview, LLC;
3. The following individuals will have primary responsibility for the account and shall have the authority to open and close the account and effect transactions in the account, including without limitation signing checks, initiating wire and automatic transfers, and transferring or withdrawing funds: Dawn Bulgarella and Susan Jennings;
4. The following individuals are authorized to withdraw and transfer funds from this account: Dawn Bulgarella and Susan Jennings;

BE IT FURTHER RESOLVED that the duly authorized individuals are hereby authorized and directed to enter into a depository agreement, in such form as shall be approved by such duly authorized individuals, with the consent of counsel; and

BE IT FURTHER RESOLVED that the authorization for this account may be withdrawn by the Board at any time and for any reason. Provided, however, that until Regions Bank receives written notice of the termination by the Board of this authorization from any of its members or any individuals listed above as having primary responsibility for the account, then this resolution shall remain in full force and effect. However, upon receipt of such written notice, funds remaining on deposit shall be immediately paid to the UAB Southview, LLC.

#### Approving Signatories for UAB Southview, LLC New Operating Account

#### RESOLUTION

WHEREAS, UAB Southview, LLC maintains with the approved depositories designated in Exhibit D, those accounts identified therein; and

WHEREAS, Board Rule 405 requires that each University official authorized to effect transactions involving those accounts, including those authorized to sign checks, initiate wire and automatic transfers, or otherwise withdraw funds from these authorized depositories, must be designated by Resolution of the Board; and

WHEREAS, Board Rule 405 further requires that such authority to effect transaction may not be delegated by the persons so authorized; and

WHEREAS, Board Rule 405 further requires that, for each division of the University, all individuals with authority to effect such transactions be identified in a single Resolution, which shall be revised in its entirety when any change in persons so authorized is made so that the most current Resolution listing those persons so authorized can be readily verified by the Secretary of the Board.

NOW, THEREFORE, BE IT RESOLVED by The Board of Trustees of The University of Alabama that, effective December 18, 2025, the individuals identified on Exhibit D are authorized to affect the transactions specified therein on behalf of UAB Southview, LLC until this authorization is removed by official action of the Board. This Resolution supersedes any prior Resolutions granting such authority to act on behalf of UAB Southview, LLC to any individual or individuals.

Approving Creation of New Operating Account for UAB STV Orthopedics, LLC

RESOLUTION

WHEREAS, UAB Southview, LLC desires to create, maintain, and establish an account of the nature hereinafter described with Regions Bank for the deposit of certain funds under its control; and

WHEREAS, Regions Bank previously has been approved as a depository for University funds by resolution of The Board of Trustees of The University of Alabama and, as such approved depository, agrees to and accepts the creation, maintenance, and administration of the hereinafter described account upon the terms and conditions hereinafter specified;

NOW, THEREFORE, BE IT RESOLVED that The Board of Trustees of The University of Alabama does hereby authorize the opening, establishment, maintenance, and administration of the following designated account with Regions Bank for the following purpose and upon the following terms and conditions:

1. The name of the account shall be "UAB Southview, LLC Operating Account";
2. The account shall be an operating account for short term deposit of any excess operating funds of UAB Southview, LLC;
3. The following individuals will have primary responsibility for the account and shall have the authority to open and close the account and effect transactions in the account, including without limitation signing checks, initiating wire and automatic transfers, and transferring or withdrawing funds: Dawn Bulgarella and Susan Jennings;
4. The following individuals are authorized to withdraw and transfer funds from this account: Dawn Bulgarella and Susan Jennings;

BE IT FURTHER RESOLVED that the duly authorized individuals are hereby authorized and directed to enter into a depository agreement, in such form as shall be approved by such duly authorized individuals, with the consent of counsel; and

BE IT FURTHER RESOLVED that the authorization for this account may be withdrawn by the Board at any time and for any reason. Provided, however, that until

Regions Bank receives written notice of the termination by the Board of this authorization from any of its members or any individuals listed above as having primary responsibility for the account, then this resolution shall remain in full force and effect. However, upon receipt of such written notice, funds remaining on deposit shall be immediately paid to the UAB Southview, LLC.

Approving Signatories for UAB STV Orthopedics, LLC New Operating Account

RESOLUTION

WHEREAS, UAB STV Orthopedics, LLC maintains with the approved depositories designated in Exhibit E, those accounts identified therein; and

WHEREAS, Board Rule 405 requires that each University official authorized to effect transactions involving those accounts, including those authorized to sign checks, initiate wire and automatic transfers, or otherwise withdraw funds from these authorized depositories, must be designated by Resolution of the Board; and

WHEREAS, Board Rule 405 further requires that such authority to effect transaction may not be delegated by the persons so authorized; and

WHEREAS, Board Rule 405 further requires that, for each division of the University, all individuals with authority to effect such transactions be identified in a single Resolution, which shall be revised in its entirety when any change in persons so authorized is made so that the most current Resolution listing those persons so authorized can be readily verified by the Secretary of the Board.

NOW, THEREFORE, BE IT RESOLVED by The Board of Trustees of The University of Alabama that, effective December 18, 2025, the individuals identified on Exhibit E are authorized to affect the transactions specified therein on behalf of UAB STV Orthopedics, LLC until this authorization is removed by official action of the Board. This Resolution supersedes any prior Resolutions granting such authority to act on behalf of UAB STV Orthopedics, LLC to any individual or individuals.

Approving Irrevocable Standby Letter of Credit and Pledge of Operating Account

RESOLUTION

WHEREAS, UAB St. Vincent's Employment Authority ("UABSTV Employment Authority") has obtained workers' compensation insurance for its employees through the Healthcare Workers Compensation Fund ("HWCF"), a group self-insurance fund that is sponsored by the Alabama Hospital Association; and

WHEREAS, the HWCF requires UABSTV Employment Authority to have an Irrevocable Standby Letter of Credit (the "Letter of Credit") issued on its behalf in an amount sufficient to secure its obligations as part of the workers' compensation program, which amount may change from year to year; and

WHEREAS, on December 17, 2024, the Board previously approved a Letter of Credit issued for the UABSTV Employment Authority in an amount of \$250,000 based on the initial year requirement of HWCF for an LOC equal to the plan's deductible, or \$250,000; and

WHEREAS, due to HWCF requiring collateral on the aggregate case reserves of the plan (estimated ultimate value of the filed claims less the amounts paid to date), at September 30<sup>th</sup> each year, it is expected that the amount of required LOC may fluctuate and potentially increase in future years; and

WHEREAS, UABSTV Employment Authority desires to enter into an agreement for Regions Bank to issue a Letter of Credit for the benefit of HWCF; and

WHEREAS, Regions Bank requires that the Letter of Credit be secured by a pledge of collateral; and

WHEREAS, UAB St. Vincent's Health System Authority ("UABSTV HS Authority") desires to pledge the UAB St. Vincent's Health System Authority Operating Account held at Regions Bank as collateral to secure the obligations of its affiliate, UABSTV Employment Authority pursuant to the Letter of Credit; and

WHEREAS, pursuant to Rule 406, The Board of Trustees of The University of Alabama (the "UA Board") is required to approve the issuance of the Letter of Credit and the pledge of the Operating Account;

NOW, THEREFORE, BE IT RESOLVED that the UA Board does hereby authorize and approve UABSTV Employment Authority entering into an agreement with Regions Bank to issue a Letter of Credit in an amount up to \$1,000,000 for the benefit of HWCF.

RESOLVED FURTHER, that the UA Board does hereby authorize and approve UABSTV HS Authority pledging the UAB St. Vincent's Health System Authority Operating

Account held at Regions Bank as collateral to secure the obligations of UABSTV Employment Authority pursuant to the Letter of Credit being issued by Regions Bank.

RESOLVED FURTHER that each of Dawn Bulgarella, Bernard Mays and Susan Jennings are hereby authorized and directed to enter into one or more agreements, in such form as shall be approved by such duly authorized individual, with the consent of counsel, in order to effectuate the foregoing resolutions.

Pro tem Phelps said the final Finance Committee item was a UAH item. Prior to opening the floor for discussion, Pro tem Phelps called for a motion to consider the UAH item. On the motion of Trustee Gronberg, duly seconded, the Board opened discussion on the UAH item.

Pro tem Phelps recognized Dr. Dana Keith to present the item and respond to any questions.

Pro tem Phelps thanked Dr. Keith for her presentation and asked if there were any questions or comments from the Board. Hearing none, Pro tem Phelps called for a vote to approve the UAH resolution, and the Board unanimously approved the resolution.

Granting Authorization for Continuation of the Tennessee Resident Scholarship Pilot Program at UAH

#### RESOLUTION

WHEREAS, Alabama Code §16-64-2 provides that a board of trustees of a public institution of higher education in the state of Alabama may authorize the application of resident tuition rates to full-time, undergraduate non-resident students who receive “a partial or full scholarship award in recognition of a particular talent or ability, provided such student possesses the talent or ability at the time of initial enrollment and maintains continuous eligibility at that institution”; and

WHEREAS, as permitted by Board Rule 202, The University of Alabama in Huntsville (“UAH”) currently charges resident tuition to Tennessee residents who reside in nine counties in Tennessee within a 50-mile radius of the UAH campus; and

WHEREAS, The Board of Trustees of The University of Alabama (“Board”) approved the implementation of the Tennessee Resident Scholarship Program (“Program”) in November 2020; and

WHEREAS, under this Program, UAH can charge resident tuition to new first- time, full-time freshmen students who have a permanent address in the state of Tennessee (TN) outside of a 50-mile radius of the UAH campus and meet the requirements for a merit (ability) or athletic (talent) scholarship; and

WHEREAS, the UAH President recommends continuation of the Program for first-time, full-time freshmen enrolling in AY 2027-2028;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves continuation of the Program for AY 2027-2028;

BE IT FURTHER RESOLVED that, absent Board approval to continue the Program beyond AY 2027-2028, the Program will not continue.

Pro tem Phelps said the next four items of business were Physical Property Committee items, including one UAB item and three UAB Health System items. Prior to opening the floor for discussion, Pro tem Phelps called for a motion to consider the UAB item. On the motion of Trustee Hall, duly seconded, the Board opened discussion on the resolution.

Pro tem Phelps recognized UA System Assistant Vice Chancellor for Construction Management Mike Rodgers to present the UAB item and respond to any questions.

Pro tem Phelps asked if there were any questions or comments from the Board. Hearing none, Pro tem Phelps called for a vote to approve the item, and the Board unanimously approved the UAB resolution.

Approving the acceptance of gift property; granting authorization to execute a Real Estate Sales Agreement for the disposition of the Miller Gift Property

#### RESOLUTION

WHEREAS, in 2024, The University of Alabama at Birmingham (the "University") received notice of receipt of real estate property located at Hidden Lakes Subdivision Lots 14 & 15, Cullman ("Property"), Alabama upon the death of Arthur Samuel Miller in April 2024 and the subsequent termination of the Miller Trust Agreement; and

WHEREAS, the Property is undeveloped and located within the Hidden Lakes Subdivision in Cullman, Alabama and the University has no programmed uses/requirements for the property; and

WHEREAS, Pursuant to Board Rule 411, The Board of Trustees of The University of Alabama on behalf of the University, accepts this generous gift of Property from the Miller Trust Agreement; and

WHEREAS, the University now desires to sell the Property so that the proceeds may be utilized by UAB's Pancreatic Cancer Research per the donor's wishes; and

WHEREAS, the University has made concerted efforts to market the Property in accordance with the provisions of Board Rule 415, and considers the below referenced offer fair and reasonable based on the existing condition of the Property and the Broker Opinion of Value; and

WHEREAS, the University has reached tentative agreement to sell the property to William Theodore Munger and Kristin Munger contingent upon approval by The Board of Trustees of The University of Alabama;

NOW, THEREFORE, BE IT RESOLVED by The Board of Trustees of The University of Alabama that it herewith accepts with appreciation this generous gift from the Arthur Samuel Miller Trust.

BE IT FURTHER RESOLVED by The Board of Trustees of The University of Alabama that Stephanie B. Mullins, Vice President for Finance, or those officers named in the most recent Board Resolutions granting signature authority for The University of Alabama at Birmingham, are hereby authorized to act for and in the name of The Board of Trustees of The University of Alabama in executing the necessary documents to effect the sale of said Property.

BE IT FURTHER RESOLVED that the University be authorized to take other actions necessary to complete the sale of the Property on behalf of The Board of Trustees of The University of Alabama.

Prior to opening the floor for discussion on the three UAB Health System items, Pro tem Phelps called for a motion to consider the items collectively. On the motion of Trustee Hall, duly seconded, the Board opened discussion on the resolutions.

Pro tem Phelps recognized Mr. Rodgers to present the Health System items and respond to any questions.

Pro tem Phelps asked if there were any questions or comments from the Board. There were none.

Pro tem Phelps asked if there were any questions or comments from the Board. Hearing none, Pro tem Phelps called for a vote to approve the three UAB Health System items, and the Board unanimously approved the resolutions.

Approving the procurement and installation of Alcon Unity Surgical Systems at University Hospital - Callahan Eye

### RESOLUTION

WHEREAS, the UAB Callahan Eye Hospital Authority, an Alabama university authority sponsored by The Board of Trustees of The University of Alabama (“UA Board”), managed by UAB Medicine Enterprise and part of the UAB Health System Authority (“Health System”), owns and leases space, including 17 operating rooms, to the University of Alabama Hospital at it Callahan Eye campus (“UAB Hospital- Callahan Eye”); and

WHEREAS, the operating rooms at UAB Hospital- Callahan Eye are utilized for a wide range of complex ophthalmic surgeries which require specialized equipment such as the Alcon Unity VCS| CS Surgical system that is capable of both Cataract (anterior segment) and Retina/ vitreous (posterior segment) surgeries; and

WHEREAS, The Alcon Unity VCS| CS Surgical system will replace the existing Alcon Centurian and Alcon Constellation surgical systems which are 10 years old or older; and

WHEREAS, the new Alcon VCS| CS Surgical system provides the following enhancements in performance and patient outcomes: combines two legacy platforms into one, allows surgeons to transition between modalities decreasing room turnover time, reduce intraocular pressure fluctuations and surgical trauma, provides superior cutting performance, provides better visualization resulting in reduce complications and improved recovery; and

WHEREAS, the UAB Callahan Eye Hospital Authority on August 14<sup>th</sup>, 2025 received approval from the UAB Callahan Eye Hospital Authority Board for its FY 2026 Capital budget that allocated \$3,000,000 in funds for the Unity VCS| CS Surgical System; and

WHEREAS, the UAB Callahan Eye Hospital Authority on August 20, 2025 received approval from the UAB Health System Finance Committee for its FY 2026 Capital Budget that allocated \$3,000,000 in funds for the Unity VCS| CS Surgical System; and

WHEREAS, the Total Project Cost associated with the purchase of 16 Alcon Unity VCS| CS Surgical Systems is as follows:

A. EQUIPMENT – Alcon Unity VCS  CS Surgical System	<u>\$2,814,117</u>
B. CONTINGENCY	<u>\$0</u>
C. OTHER	<u>\$0</u>
D. TOTAL PROJECT COST	<u>\$2,814,117</u>

WHEREAS, the UAB Callahan Eye Hospital Authority will enter into a service agreement with ALCON Vision LLC, for a total cost of \$921,312 that will begin after the 1-year warranty period and be billed monthly for 48 months at a monthly rate of \$19,194; and

WHEREAS, the equipment meets the Unique Design requirement of the Sole Source Justification and the final cost is a negotiated price; and

WHEREAS, the Project is funded from the UAB Callahan Eye Hospital Authority’s FY 2026 Plant Fund; and

WHEREAS, the UAB Health System Authority Board of Directors has reviewed and recommends approval of this Project;

NOW, THEREFORE, BE IT RESOLVED BY THE UA BOARD, that it hereby authorizes the UAB Callahan Eye Hospital Authority officers and their designees to execute an agreement with Alcon Vision LLC to acquire the Alcon Unity VC| CS Surgical System and necessary accessories for a total project cost not to exceed \$2,814,117.

Approving the revised project budget for the UAB St. Vincent’s Capital Equipment Acquisition Plan

**RESOLUTION**

WHEREAS, on June 25, 2024, the UA Board approved the plan to acquire the St. Vincent’s facilities from Ascension; and

WHEREAS, on November 8, 2024, the UA Board approved a Capital Plan for replacement of medical equipment at end-of-life and to acquire medical equipment to open additional clinical capacity in the first year of UAB St. Vincent operations; and

WHEREAS, the Preliminary Project Budget approved to implement the Capital Plan is \$18,450,000; and

WHEREAS, UAB Health System has completed the equipment specification and installation design for the imaging equipment included in the Capital Plan; and

WHEREAS, UAB Health System has determined the need to perform additional renovations to install the imaging equipment and satisfy Alabama Department of Public Health requirements; and

WHEREAS, the Final Project Budget to implement the Capital Plan is \$23,000,000; and

WHEREAS, the Capital Plan will be implemented from the proceeds of the Series 2024 financing acquired by UAB St. Vincent's Health System; and

WHEREAS, future equipment purchase for UAB St. Vincent's will be identified in the Annual Capital Projects and Facilities Report and submitted to the UA Board for approval in accordance with Board Rule 415; and

WHEREAS, the UAB Health System Board of Directors have reviewed and recommend approval of this item;

NOW, THEREFORE, BE IT RESOLVED by The Board of Trustees of The University of Alabama that Dawn Bulgarella, Chief Executive Officer of the UAB St. Vincent's Health Care Authority, or her designee is authorized to continue with the implementation of the Capital Plan for a total cost of \$23,000,000.

Granting authorization to execute the Courtyard by Marriott Renewal Franchise Agreement

#### RESOLUTION

WHEREAS, the University of Alabama Hospital ("University Hospital") owns the 122-room Courtyard by Marriott Hotel located on Block 160 in the City of Birmingham, Alabama (the "Property"); and

WHEREAS, University Hospital previously executed a ten (10) year (April 2017 – April 2027) Franchise Agreement with Marriott International, Inc. ("Marriott"); and

WHEREAS, the Franchise Agreement requires periodic Property Improvement Plans (PIPs) to upgrade the property to maintain current Marriott standards; and

WHEREAS, on November 8, 2024, the Board granted authorization to University Hospital to execute an Amendment To Courtyard By Marriott Franchise Agreement to include a reduced scope of work to the 24/25 PIP in return for an early renewal of the Courtyard by Marriott Franchise Agreement; and

WHEREAS, on December 13, 2024, University Hospital executed the Amendment; and

WHEREAS, University Hospital has completed the 24/25 PIP work and Marriott has submitted a Courtyard by Marriott Renewal Franchise Agreement for execution; and

WHEREAS, this Renewal Agreement will extend the current term through April 26, 2037. The royalty fee will remain at 6% of Gross Room Sales. The Marketing Fund

Contribution will remain at 2% of Gross Room Sales. The next PIP is to be completed by June 28, 2032;

NOW, THEREFORE, BE IT RESOLVED by The Board of Trustees of The University of Alabama that:

1. It approves the Franchise Agreement in a form that is the same as or substantially similar to the form attached hereto as Exhibit F.
2. Stephanie B. Mullins, UAB Vice President for Finance, or those officers named in the most recent resolution of The Board of Trustees of The University of Alabama granting signature authority for The University of Alabama at Birmingham, are hereby authorized and empowered for and on behalf of the Board to make, execute, and deliver such documents and instruments as may be necessary or required and to do any and all things necessary or desirable to effectuate the transaction set out above.
3. Each act of any officer described above that would have been authorized by the foregoing provisions of this resolution, except that such action was taken prior to the adoption of this resolution, is hereby ratified, confirmed, approved and adopted.

Pro tem Phelps said the final item on the agenda was a UA System item from the Academic Affairs and Student Affairs Committee. Prior to opening the floor for discussion, Pro tem Phelps called for a motion to consider the UA System item. On the motion of Trustee Hall, duly seconded, the Board opened discussion on the resolution.

Pro tem Phelps recognized Dr. Johnson to present the item and respond to any questions.

Pro tem Phelps asked if there were any questions or comments from the Board. Hearing none, Pro tem Phelps called for a vote to approve the item, and the Board unanimously approved the UA System resolution.

Approving Changes to Test-Optional Pilot Program for UA System Campuses

#### RESOLUTION

WHEREAS, The University of Alabama (“UA”), The University of Alabama at Birmingham (“UAB”), and The University of Alabama in Huntsville (“UAH” and,

collectively, the “UA System campuses”) currently offer a test-optional admissions process to all undergraduate applicants as part of a pilot program (“Test-Optional Pilot Program”) that was implemented during the COVID-19 pandemic; and

WHEREAS, five cohorts (Fall 2021, 2022, 2023, 2024, and 2025) of first-time undergraduates have matriculated since the implementation of the Test-Optional Pilot Program; and

WHEREAS, in February 2025, the Board of Trustees of the University of Alabama (“Board of Trustees”) adopted a resolution extending the Test-Optional Pilot Program for undergraduate applicants matriculating in AY2026-2027; and

WHEREAS, standardized test scores provide valuable insight into academic success at our universities and, as part of the holistic review process, serve as a predictor that is helpful to ensure the success of our students; and

WHEREAS, undergraduate students applying for admission in AY2027-2028 – to include Fall 2027, Spring 2028, or Summer 2028 – will only be eligible to apply to a UA System campus through the Test-Optional Pilot Program if the applicant has a cumulative high school GPA of 3.0 or higher; and

WHEREAS, undergraduate students applying for admission in AY2028-2029 and onward to a UA System campus must submit an ACT or SAT score to be considered for admission; and

WHEREAS, during the remaining period in which test-optional admission is allowed, the UA System campuses will continue to conduct comprehensive analyses of the impact of test-optional admissions on undergraduate enrollment and completion and will continue to implement campus-based strategies to ensure proper student assessment, academic placement, and the success of all students across the UA System; and

WHEREAS, eligibility to apply under the Test-Optional Pilot Program does not guarantee admission, and nothing in this Resolution precludes a campus from establishing a more rigorous GPA threshold for admission, nor does it prevent any department, school, or college from requiring standardized test scores or other assessments for admission or matriculation into specific academic programs, provided such requirements are approved by the appropriate campus officials;

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees that undergraduate students applying for admission in AY2027-2028 will only be considered for test-optional admission to a UA System campus if the applicant has a cumulative high school GPA of 3.0 or higher;

BE IT FURTHER RESOLVED that all undergraduate applicants to a University of Alabama System campus in AY2028-2029 and onward must submit an ACT or SAT score to be considered for admission;

BE IT FURTHER RESOLVED that any changes in standardized test requirements for undergraduate admission beyond AY2028-2029 will require Board review and approval;

BE IT FURTHER RESOLVED that each of the UA System campuses communicate these changes timely and effectively to prospective undergraduate applicants.

There being no further business to come before the Board, the meeting was adjourned.



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Mark D. Foley, Jr.  
Secretary of The Board of Trustees

**EXHIBIT A**  
**Group Certificate**

*[See attached.]*

**CERTIFICATE OF FORMATION  
OF  
UAB SOUTHVIEW, LLC**

In accordance with applicable provisions of the Alabama Limited Liability Company Law of 2014 (Section 10A-5A-1.01 et seq., Code of Alabama (1975)) (the “Law”), the undersigned limited liability company hereby executes this Certificate of Formation, and hereby certifies that such Certificate of Formation has been duly adopted as required by the Law.

1. The name of the limited liability company is UAB Southview, LLC.
2. The text of the Certificate of Formation of the limited liability company is as follows:

**ARTICLE I.  
NAME**

The name of the limited liability company is UAB Southview, LLC, hereinafter referred to as the “Company.”

**ARTICLE II.  
GOVERNING LAW**

The Company is organized under the provisions of the Alabama Limited Liability Company Law (§ 10A-5A-1.01 et seq., Code of Alabama (1975)).

**ARTICLE III.  
PURPOSES AND POWERS**

3.1 Subject to the limitations set out in paragraph 3.2 below, the Company is formed as a charitable organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the Regulations promulgated thereunder, as they now exist or as they may hereafter be amended from time to time (the “Code and Regulations”), and as a “University Affiliate” within the meaning of Section 16-17A-2(14) of the University Authority Act of 2016 (§ 16-17A-1 et seq., Code of Alabama (1975)) (the “University Authority Act”). Without in any way limiting the foregoing statement of charitable purposes, the Company is organized and will be operated for the following purposes:

- (a) The Company will serve as the entity to establish, develop, promote and/or facilitate patient care and treatment, management services, human services programs, educational programs and other charitable activities, all in promotion and support of the interests and purposes of the health care facilities comprising the UAB St. Vincent’s Health System (collectively, the “Health System”). The Company and the Health System shall endeavor to (i) expand access to healthcare for poor, vulnerable and rural-based populations, and (ii) provide high quality clinical care, in support of the

public health mission of the Member, the UAB St. Vincent's Health System Authority (the "Authority") and The Board of Trustees of The University of Alabama (the "UA Board").

(b) To establish, maintain, support and stimulate the development of a health care network, including, without limitation, hospitals, clinics and other facilities that provide inpatient or outpatient care, accommodation, diagnosis and treatment to persons suffering from injury, disease or any other condition where medical, surgical, rehabilitative, nursing and associated professional services may be required.

(c) To foster the conduct of such educational and research activities related to rendering care to the sick and injured or the protection of health, as, in the judgment of the board of directors of the Company, may be justified by the facilities, personnel, funds or other requirements that are or can be made available.

(d) To foster and/or participate in activities designed and carried on to promote the general health, rehabilitation and social needs of the community.

(e) In connection with the foregoing activities, to solicit, accept, receive, manage and disburse contributions of property, including real property, and income therefrom, and to apply for, accept and expend grants in accordance with their requirements.

(f) To engage in any lawful act or activity for which a company may be organized under the Law, provided that such act or activity is one permitted by an organization exempt under Section 501(c)(3) of the Code and the regulations promulgated thereunder (the "Regulations").

3.2 The Company shall be subject to the following restrictions and limitations, notwithstanding any other provisions of this Certificate of Formation (the "Certificate"):

(a) The Company shall not carry on any activities not permitted to be carried on by an organization exempt under Section 501(c)(3) of the Code and the Regulations, or by an organization, contributions to which are deductible under Section 170(c)(2) of the Code and the Regulations.

(b) No substantial part of the activities of the Company shall be carrying on propaganda, or otherwise attempting to influence legislation, and no activities of the Company

shall be participating in, or intervening in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office.

(c) No part of the net earnings of the Company shall inure to the benefit of any private person, director, or officer of the Company, or any other private individual (except that reasonable compensation may be paid for services rendered to or for the Company affecting one or more of its purposes).

3.3 Upon the liquidation or dissolution of the Company, whether voluntary or involuntary, no private person, director, or officer shall be entitled to any distribution or division of its remaining property or its proceeds, and the balance of all money and other property received by the Company from any source, after the payment of all debts and obligations of the Company, shall be used and distributed exclusively to the Member, the Authority or the UA Board to be used exclusively for public purposes and within the intentment of Section 501(c)(3) of the Code and the Regulations.

#### **ARTICLE IV. MEMBERS**

The Company shall have one (1) member. The sole member of the Company shall be Universal Health Services, Inc., an Alabama corporation and University Affiliate under the University Authority Act (the "Member").

#### **ARTICLE V. INTERNAL AFFAIRS**

The following provisions for the regulation of the business and for the conduct of the affairs of the Company and the directors thereof are hereby adopted:

5.1 The Authority shall have the right to appoint the board of directors of the Company as set forth in the operating agreement of the Company (the "Operating Agreement"), subject to the approval of the UA Board. The Authority or the UA Board may remove any director at any time, with or without cause.

5.2 The power to alter, amend or repeal the Operating Agreement or adopt a new Operating Agreement shall be vested in the Authority, except to the extent otherwise provided in the Operating Agreement, which power may be exercised in the manner and to the extent provided in the Operating Agreement. The Operating Agreement may contain any provisions for the regulation and conduct of the affairs of the Company and the directors not inconsistent with the Law, the University Authority Act or this Certificate.

5.3 All corporate powers and duties imposed on the board of directors by the Law, the University Authority Act on University Affiliates, this Certificate, or the Operating Agreement of the Company, and the business and affairs of the Company (the "Powers and Duties"), shall be exercised by or under the authority of, and managed under the direction of, the board of directors of the Company; provided, however, that pursuant to the Operating Agreement, the board of

directors may confer any Powers and Duties on such other person or persons as the board of directors determines in its sole discretion to be in the best interests of the Company. The appointment of the president or chief executive officer (or both) of the Company shall be subject to the approval of the UA Board. Directors shall be elected in the manner provided in the Operating Agreement. The number of directors of the Company shall be fixed from time to time by the Operating Agreement.

5.4 In amplification and not in limitation of the provisions of applicable law:

(a) Pursuant to Sections 10A-20-16.01 et seq., and 6-5-336 of the Code of Alabama (1975), as amended, and the Volunteer Protection Act of 1997, 42 U.S.C. § 14501 et seq., as amended, all non-compensated directors, trustees, members of governing bodies, officers and other eligible volunteers of the Company shall be immune from suit and shall not be subject to civil liability arising from the conduct of the affairs of the Company except when the act or omission of such person that gives rise to the cause of action amounts to willful or wanton misconduct or fraud or gross negligence.

(b) The Company shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative, including appeals (other than an action by or in the right of the Company), by reason of the fact that he or she is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such claim, action, suit or proceeding, unless he or she acted intentionally or willfully against the best interests of the Company. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person acted intentionally or willfully in a manner that was opposed to the best interests of the Company.

(c) The Company shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action or suit by or in the right of the Company to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company and except that no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for intentional or willful misconduct in the performance of his or her duty to the Company unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(d) Any indemnification under subsections (b) and (c) (unless ordered by a court) shall be made by the Company only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in subsections (b) and (c). Such determination shall be made (1) by the Board of Directors by a majority vote of the directors who were not parties to, or who have been wholly successful on the merits or otherwise with respect to, such claim, action, suit or proceeding, or (2) if a majority of disinterested directors so directs, by independent legal counsel in a written opinion.

(e) Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit or proceeding may be paid by the Company in advance of the final disposition of such claim, action, suit or proceeding upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount if and to the extent that it shall ultimately be determined that he or she is not entitled to be indemnified by the Company as authorized in this Section. Such undertaking shall be an unlimited, unsecured general obligation of the officer of the Company and shall be accepted without reference to his ability to make repayment.

(f) The indemnification authorized by this Section shall not be deemed exclusive of and shall be in addition to any other rights to which those indemnified may be entitled under any statute, rule of law, provision of certificate of formation, bylaws, agreement, vote of disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person. No amendment, modification, or repeal of this Section shall diminish the right to indemnification with respect to any claim, cause, or matter in any then pending or subsequent proceeding that is based in any material respect on any alleged action or failure to act prior to such amendment, modification or repeal.

(g) The Company shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Company would have the power to indemnify him or her against such liability under the provisions of this Section.

5.5 The Company reserves the right from time to time to amend, alter or repeal each and every provision contained in this Certificate, or to add one or more additional provisions, upon a vote as required by the Operating Agreement.

5.6 The entity identification number assigned to the limited liability company by the Alabama Secretary of State is \_\_\_\_\_.

**ARTICLE VI.  
CONFIRMATION OF INSTRUMENTALITY STATUS**

In order to confirm the Company's status as an instrumentality of the Authority for purposes of Section 115 of the Internal Revenue Code, as amended, the Company acknowledges, represents and confirms that:

(a) The Company will act as a University Affiliate in accordance with the University Authority Act, to assist the Member in carrying out the public health mission of the Authority and the UA Board. See Section 3.1 of this Certificate.

(b) All of the board of directors of the Company must be appointed by the Authority, subject to approval of the UA Board, and any director may be removed by the Authority or the UA Board at any time. See Section 5.1 of this Certificate.

(c) The appointment of the officers serving as president and/or chief executive officer of the Company must be approved by the Authority. See the Operating Agreement of the Company.

(d) The Authority's approval is required for the Company to (a) take major corporate action, (b) adopt or change annual or operational budgets, and (c) to take actions that would cause the Company to vary significantly from adopted budgets. See the Operating Agreement of the Company.

(e) Upon dissolution, all of the Company's assets must be distributed to the Member, the Authority or the UA Board to be used exclusively for public purposes. See Section 3.3 of this Certificate.

*[Signatures of officers on following page]*

**IN WITNESS WHEREOF**, the undersigned president and secretary of UAB Southview, LLC execute this Certificate of Formation on this \_\_\_ day of \_\_\_\_\_, 2025.

By: \_\_\_\_\_  
Name: Dawn Bulgarella  
Its: President

By: \_\_\_\_\_  
Name: Susan Jennings  
Its: Secretary

**This instrument prepared by:**

*This instrument prepared by:*

Dorothy D. Pak  
University of Alabama System  
500 22<sup>nd</sup> Street South, Suite 504  
Birmingham, AL 35233  
(205) 934-3474

**EXHIBIT B**  
**Group Certificate**

*[See attached.]*

**CERTIFICATE OF FORMATION  
OF  
UAB STV ORTHOPEDICS, LLC**

In accordance with applicable provisions of the Alabama Limited Liability Company Law of 2014 (Section 10A-5A-1.01 et seq., Code of Alabama (1975)) (the “Law”), the undersigned limited liability company hereby executes this Certificate of Formation, and hereby certifies that such Certificate of Formation has been duly adopted as required by the Law.

1. The name of the limited liability company is UAB STV Orthopedics, LLC.
2. The text of the Certificate of Formation of the limited liability company is as follows:

**ARTICLE I.  
NAME**

The name of the limited liability company is UAB STV Orthopedics, LLC, hereinafter referred to as the “Company.”

**ARTICLE II.  
GOVERNING LAW**

The Company is organized under the provisions of the Alabama Limited Liability Company Law (§ 10A-5A-1.01 et seq., Code of Alabama (1975)).

**ARTICLE III.  
PURPOSES AND POWERS**

3.1 Subject to the limitations set out in paragraph 3.2 below, the Company is formed as a charitable organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the Regulations promulgated thereunder, as they now exist or as they may hereafter be amended from time to time (the “Code and Regulations”), and as a “University Affiliate” within the meaning of Section 16-17A-2(14) of the University Authority Act of 2016 (§ 16-17A-1 et seq., Code of Alabama (1975)) (the “University Authority Act”). Without in any way limiting the foregoing statement of charitable purposes, the Company is organized and will be operated for the following purposes:

- (a) The Company will serve as the entity to establish, develop, promote and/or facilitate patient care and treatment, management services, human services programs, educational programs and other charitable activities, all in promotion and support of the interests and purposes of the health care facilities comprising the UAB St. Vincent’s Health System (collectively, the “Health System”). The Company and the Health System shall endeavor to (i) expand access to healthcare for poor, vulnerable and rural-based populations, and (ii) provide high quality clinical care, in support of the public

health mission of the Member, the UAB St. Vincent's Health System Authority (the "Authority") and The Board of Trustees of The University of Alabama (the "UA Board").

(b) To establish, maintain, support and stimulate the development of a health care network, including, without limitation, hospitals, clinics and other facilities that provide inpatient or outpatient care, accommodation, diagnosis and treatment to persons suffering from injury, disease or any other condition where medical, surgical, rehabilitative, nursing and associated professional services may be required.

(c) To foster the conduct of such educational and research activities related to rendering care to the sick and injured or the protection of health, as, in the judgment of the board of directors of the Company, may be justified by the facilities, personnel, funds or other requirements that are or can be made available.

(d) To foster and/or participate in activities designed and carried on to promote the general health, rehabilitation and social needs of the community.

(e) In connection with the foregoing activities, to solicit, accept, receive, manage and disburse contributions of property, including real property, and income therefrom, and to apply for, accept and expend grants in accordance with their requirements.

(f) To engage in any lawful act or activity for which a company may be organized under the Law, provided that such act or activity is one permitted by an organization exempt under Section 501(c)(3) of the Code and the regulations promulgated thereunder (the "Regulations").

3.2 The Company shall be subject to the following restrictions and limitations, notwithstanding any other provisions of this Certificate of Formation (the "Certificate"):

(a) The Company shall not carry on any activities not permitted to be carried on by an organization exempt under Section 501(c)(3) of the Code and the Regulations, or by an organization, contributions to which are deductible under Section 170(c)(2) of the Code and the Regulations.

(b) No substantial part of the activities of the Company shall be carrying on propaganda, or otherwise attempting to influence legislation, and no activities of the Company shall be participating in, or intervening in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office.

(c) No part of the net earnings of the Company shall inure to the benefit of any private person, director, or officer of the Company, or any other private individual (except that reasonable compensation may be paid for services rendered to or for the Company affecting one or more of its purposes).

3.3 Upon the liquidation or dissolution of the Company, whether voluntary or involuntary, no private person, director, or officer shall be entitled to any distribution or division of its remaining property or its proceeds, and the balance of all money and other property received by the Company from any source, after the payment of all debts and obligations of the Company, shall be used and distributed exclusively to the Member, the Authority or the UA Board to be used exclusively for public purposes and within the intendment of Section 501(c)(3) of the Code and the Regulations.

#### **ARTICLE IV. MEMBERS**

The Company shall have one (1) member. The sole member of the Company shall be Universal Health Services, Inc., an Alabama corporation and University Affiliate under the University Authority Act (the "Member").

#### **ARTICLE V. INTERNAL AFFAIRS**

The following provisions for the regulation of the business and for the conduct of the affairs of the Company and the directors thereof are hereby adopted:

5.1 The Authority shall have the right to appoint the board of directors of the Company as set forth in the operating agreement of the Company (the "Operating Agreement"), subject to the approval of the UA Board. The Authority or the UA Board may remove any director at any time, with or without cause.

5.2 The power to alter, amend or repeal the Operating Agreement or adopt a new Operating Agreement shall be vested in the Authority, except to the extent otherwise provided in the Operating Agreement, which power may be exercised in the manner and to the extent provided in the Operating Agreement. The Operating Agreement may contain any provisions for the regulation and conduct of the affairs of the Company and the directors not inconsistent with the Law, the University Authority Act or this Certificate.

5.3 All corporate powers and duties imposed on the board of directors by the Law, the University Authority Act on University Affiliates, this Certificate, or the Operating Agreement of the Company, and the business and affairs of the Company (the "Powers and Duties"), shall be exercised by or under the authority of, and managed under the direction of, the board of directors of the Company; provided, however, that pursuant to the Operating Agreement, the board of directors may confer any Powers and Duties on such other person or persons as the board of directors determines in its sole discretion to be in the best interests of the Company. The appointment of the president or chief executive officer (or both) of the Company shall be subject to the approval of the UA Board. Directors shall be elected in the manner provided in the Operating Agreement. The number of directors of the Company shall be fixed from time to time by the Operating Agreement.

5.4 In amplification and not in limitation of the provisions of applicable law:

(a) Pursuant to Sections 10A-20-16.01 et seq., and 6-5-336 of the Code of Alabama (1975), as amended, and the Volunteer Protection Act of 1997, 42 U.S.C. § 14501 et seq., as amended, all non-compensated directors, trustees, members of governing bodies, officers and other eligible volunteers of the Company shall be immune from suit and shall not be subject to civil liability arising from the conduct of the affairs of the Company except when the act or omission of such person that gives rise to the cause of action amounts to willful or wanton misconduct or fraud or gross negligence.

(b) The Company shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative, including appeals (other than an action by or in the right of the Company), by reason of the fact that he or she is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such claim, action, suit or proceeding, unless he or she acted intentionally or willfully against the best interests of the Company. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person acted intentionally or willfully in a manner that was opposed to the best interests of the Company.

(c) The Company shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action or suit by or in the right of the Company to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company and except that no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for intentional or willful misconduct in the performance of his or her duty to the Company unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(d) Any indemnification under subsections (b) and (c) (unless ordered by a court) shall be made by the Company only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in subsections (b) and (c). Such determination shall be made (1) by the Board of Directors by a majority vote of the directors who were not parties to, or who have been wholly successful on the merits or otherwise with

respect to, such claim, action, suit or proceeding, or (2) if a majority of disinterested directors so directs, by independent legal counsel in a written opinion.

(e) Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit or proceeding may be paid by the Company in advance of the final disposition of such claim, action, suit or proceeding upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount if and to the extent that it shall ultimately be determined that he or she is not entitled to be indemnified by the Company as authorized in this Section. Such undertaking shall be an unlimited, unsecured general obligation of the officer of the Company and shall be accepted without reference to his ability to make repayment.

(f) The indemnification authorized by this Section shall not be deemed exclusive of and shall be in addition to any other rights to which those indemnified may be entitled under any statute, rule of law, provision of certificate of formation, bylaws, agreement, vote of disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person. No amendment, modification, or repeal of this Section shall diminish the right to indemnification with respect to any claim, cause, or matter in any then pending or subsequent proceeding that is based in any material respect on any alleged action or failure to act prior to such amendment, modification or repeal.

(g) The Company shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Company would have the power to indemnify him or her against such liability under the provisions of this Section.

5.5 The Company reserves the right from time to time to amend, alter or repeal each and every provision contained in this Certificate, or to add one or more additional provisions, upon a vote as required by the Operating Agreement.

5.6 The entity identification number assigned to the limited liability company by the Alabama Secretary of State is \_\_\_\_\_.

**ARTICLE VI.  
CONFIRMATION OF INSTRUMENTALITY STATUS**

In order to confirm the Company's status as an instrumentality of the Authority for purposes of Section 115 of the Internal Revenue Code, as amended, the Company acknowledges, represents and confirms that:

(a) The Company will act as a University Affiliate in accordance with the University Authority Act, to assist the Member in carrying out the public health mission of the Authority and the UA Board. See Section 3.1 of this Certificate.

(b) All of the board of directors of the Company must be appointed by the Authority, subject to approval of the UA Board, and any director may be removed by the Authority or the UA Board at any time. See Section 5.1 of this Certificate.

(c) The appointment of the officers serving as president and/or chief executive officer of the Company must be approved by the Authority. See the Operating Agreement of the Company.

(d) The Authority's approval is required for the Company to (a) take major corporate action, (b) adopt or change annual or operational budgets, and (c) to take actions that would cause the Company to vary significantly from adopted budgets. See the Operating Agreement of the Company.

(e) Upon dissolution, all of the Company's assets must be distributed to the Member, the Authority or the UA Board to be used exclusively for public purposes. See Section 3.3 of this Certificate.

*[Signatures of officers on following page]*

**IN WITNESS WHEREOF**, the undersigned president and secretary of UAB STV Orthopedics, LLC, execute this Certificate of Formation on this \_\_\_ day of \_\_\_\_\_, 2025.

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

Name: Dawn Bulgarella

Its: President

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

Name: Susan Jennings

Its: Secretary

This instrument prepared by:

*This instrument prepared by:*

Dorothy D. Pak  
University of Alabama System  
500 22<sup>nd</sup> Street South, Suite 504  
Birmingham, AL 35233  
(205) 934-3474

#### 406. Contracts on Behalf of the Board

##### I. Authority to Contract and Revisions of Authority

- A. The Board must designate by Resolution those persons who are authorized to enter into a contract on behalf of the Board. These Resolutions should specify that only those persons named in the most current resolution for each division of the University of Alabama System can execute a contract on behalf of the Board.
- B. The applicable Resolution for each division of The University of Alabama System should be revised in its entirety when any change is made so that the most current resolution listing those persons who have been authorized to enter into contracts on behalf of the Board can be readily verified by the Secretary to the Board.

For purposes of this Rule, the term “contract” includes any agreement involving the receipt of funds or the expenditure of System, campus, or Hospital funds, whether termed an agreement, purchase order, or otherwise.

##### II. Contracts Benefiting Senior Administrators

Contracts originated by senior administrators,<sup>1</sup> and that may be perceived to benefit that senior administrator, shall be subject to an internal counter-signature process. The second signature should be from someone of sufficient authority, typically of equal or greater authority. For contracts originated by the President, the counter-signature shall come from the Chancellor. For contracts originated by the Chancellor, the counter-signature shall come from the President Pro Tem of the Board.

##### III. Conflicts of Interest

- A. All authorized signatories of the Board shall participate in the electronic disclosure process required by Board Rule 106.
- B. Regardless of whether an individual is specifically required to participate in the Board’s electronic disclosure process, all persons authorized to sign contracts on behalf of the Board, campuses, Health System, Hospital, or any other related organization must disclose any conflicts of interest in any contract subject to their approval or signature in accordance with Board Rule 106 and 106.2, and have said contract approved by a senior administrator of equal or greater authority before the same is binding.

##### IV. Vendor Disclosure Form

Contracts with the Board involving an expenditure of \$75,000 or more shall include a “Vendor Disclosure Form” approved by the Office of Counsel. Such forms shall require disclosure by the proposed vendor of any known conflicts of interest on the part of any

---

<sup>1</sup> Senior administrators are defined by Board Rule 106 as follows: “Senior administrators, for purposes of this Rule, are defined to be the Chancellor, other Board officers and Vice Chancellors of The University of Alabama System, the Presidents and Vice Presidents of each campus and any others so designated in writing by the Chancellor.”

University officials involved in the contract or benefitting from the contract. Exceptions to this requirement shall be approved by the Office of Counsel.

V. Contracts Requiring Board Approval

A. Except as otherwise exempted below, the following contracts must be approved by the Board before the same are binding and effective:

- i. All contracts for goods or services, or both, involving an expenditure of \$1,000,000 or more for the term of the contract (including all option, renewal or extension periods) that were not procured through a competitive process;
- ii. All consulting or professional services contracts involving an expenditure of \$250,000 or more for the term of the contract (including all option, renewal or extension periods), regardless of whether the contracts were procured through a competitive process;
- iii. All contracts involving the receipt of \$1,000,000 or more for the term of the contract (including all option, renewal, or extension periods);
- iv. All information technology contracts or projects<sup>2</sup> involving an expenditure of \$750,000 or more for the term of the contract or project (including any extensions, renewals, upgrades or expansions to existing technology contracts or projects), regardless of the source of funds, that were not procured through a competitive process; and
- v. All loans, whether the UA System entity is the lender or borrower. This provision does not supersede any affiliation agreements that specify a dollar threshold for Board approval of loans.

B. The following contracts are exempt from this requirement:

- i. Contracts that are otherwise required to be approved by the Board, such as construction contracts;
- ii. Contracts that are otherwise approved by the UAB Health System Authority Board;
- iii. Contracts subject to and approved pursuant to the Heightened Review Process described below;
- iv. Contracts with publicly regulated utilities;
- v. Sponsored research grants and contracts, including associated subcontracts;

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<sup>2</sup> A technology project includes multiple related contracts for hardware, software, training, contractual services, etc. For example, a single technology project could include a \$200,000 contract for a hardware, a \$300,000 contract for software, and a \$300,000 contract for training. Even though each individual contract does not exceed \$750,000, the cost of the entire project *does* exceed \$750,000. Therefore, the entire technology project should be approved.

- vi. Contracts with related organizations that have an existing affiliation or joint operating agreement with the Board, or are otherwise incorporated as a university healthcare authority authorized by the Board;
- vii. Contracts with federal, state, or local governments or their agencies;
- viii. Gift agreements or memorandums of understanding with donors to a UA System entity;
- ix. Contracts related to the provision of legal services executed by the General Counsel;
- x. Managed care contracts for the provision of healthcare services; and
- xi. Employment contracts for employees of a UA System entity or affiliate.<sup>3</sup>

VI. Heightened Review of Certain Contracts

The Heightened Review Process provides for the System-level review and approval of certain contracts in lieu of Board approval. Contracts subject to and approved by this process must be approved by the Chancellor, or his or her designee, before the same are binding and effective. Contracts described in paragraph V.A. above, and not otherwise exempted pursuant to paragraph V.B., are eligible for review and approval through the Heightened Review Process if they also involve:

- A. Circumstances of unusual and compelling urgency (as determined by the Chancellor and Sr. Vice Chancellor for Finance and Administration, after consultation with the President pro tempore, Chair of the Finance Committee, Chair of the Legal Affairs Committee, as well as the Chair(s) of any Committee(s) to which the subject contract relates);
- B. Goods or services, or both, in support of or relating to the UAB Health System Authority;
- C. Direct provision of liability or property insurance, or compensation and welfare benefits to employees of the System office or employees or students of the campuses of the UA System, including contracts for the provision of life, disability, health (including student health plans), dental or vision insurance, or retirement, deferred compensation or other arrangement for supplemental benefits or pay not otherwise covered by Board Rule 302; or
- D. Intercollegiate athletic competitions.
- E. Goods or services, or both, in support of or relating to affiliate entities of the Board or its operating divisions that have agreed to comply with this Rule in the applicable affiliation agreement.

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<sup>3</sup> Employment contracts subject to Board approval are addressed in Board Rule 302.

The System Office shall maintain a form for such submissions and approvals and will provide the Board quarterly reports of contracts approved through the Heightened Review Process.

VII. Competitively Awarded Goods or Services Contracts

- A. All campus or University Hospital contracts for goods or services, or both, procured through a competitive process and involving an expenditure of funds of \$1,000,000 or more for the term of the contract (including all option, renewal or extension periods) shall be reported quarterly to the Finance Committee in a format with sufficient detail for effective review. Contracts that are subject to approval or have been previously approved by the Board may be excluded from the report.
- B. In connection with any procurement subject to Article 5 of Chapter 4 of Title 41, Code of Alabama, an expenditure of \$75,000 or more must be awarded by competitive sealed bid unless otherwise authorized by law.

VIII. Annual Information Technology Plans

- A. Annual information technology plans shall be reviewed and approved by the Board. Annual plans shall contain all known information technology contracts or projects requiring Board approval under Sections V(A)(ii) or V(A)(iv) of this Rule. Contracts or projects included in the approved plans will not require separate Board approval unless the terms of the contract change after the annual plan is approved by the Board. Any renewals or extensions of existing contracts or upgrades or expansion of existing projects must be included in these annual plans.
- B. The Chancellor and the Sr. Vice Chancellor for Finance and Administration shall review information technology plans and associated contracts and projects and may make recommendations to the Finance Committee regarding such plans and associated contracts and projects.

(Adopted April 21, 1995 as Rule 422; amended September 15, 1995; amended and renumbered December 5, 1997; amended April 6, 2018; June 7, 2019; April 9, 2020; June 10, 2022; September 16, 2022; April 12, 2024, November 8, 2024, February 7, 2025; December 18, 2025).

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UAB Southview, LLC

Name and address of Depository:

Regions Bank  
1900 5<sup>th</sup> Avenue North, Upper Lobby  
Birmingham, Alabama 35203

a. Name of account:

UAB Southview, LLC Operating Account

b. Name(s) of individual(s) with primary responsibility for this account:

Dawn Bulgarella  
Susan Jennings

c. Name(s) of individual(s) authorized to execute transactions involving this account and limitations on the authority given to each individual including dollar limitations and use of mechanical or facsimile system for accomplishing these transactions:

Dawn Bulgarella  
Susan Jennings

Manual or Facsimile  
Manual or Facsimile

**(NEW ACCOUNT)**

UAB STV Orthopedics, LLC

Name and address of Depository:

Regions Bank  
1900 5<sup>th</sup> Avenue North, Upper Lobby  
Birmingham, Alabama 35203

a. Name of account:

UAB STV Orthopedics, LLC Operating Account

b. Name(s) of individual(s) with primary responsibility for this account:

Dawn Bulgarella  
Susan Jennings

c. Name(s) of individual(s) authorized to execute transactions involving this account and limitations on the authority given to each individual including dollar limitations and use of mechanical or facsimile system for accomplishing these transactions:

Dawn Bulgarella  
Susan Jennings

Manual or Facsimile  
Manual or Facsimile

**(NEW ACCOUNT)**

**University of Alabama System  
Board Rule 415 (2/2005)  
Board Submittal Checklist Criteria**

**\*Board Submittal Checklist No. 1  
Real Estate Transaction  
Approval to Execute Courtyard By Marriott Renewal Franchise Agreement**

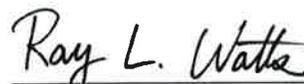
Project: Courtyard by Marriott Hotel – 1820 5<sup>th</sup> Avenue South, Birmingham,  
AL 35233: Approval to Execute Renewal Franchise Agreement

Campus: University of Alabama at Birmingham

Date: December 18, 2025

- 1. Complete Board Submittal Checklist No. 1
- 2. Transmittal letter to the Chancellor from Campus President requesting the project be placed on the agendas for the forthcoming Physical Properties Committee and Board of Trustees (or Executive Committee) meetings.
- 3. Proposed Board Resolution requesting approval to execute Courtyard by Marriott Renewal Franchise Agreement
- 4. Completed Executive Summary
- 5. Campus map(s) showing project site
- 6. Campus correspondence/photos providing supporting project information

Approved  
by:

  
\_\_\_\_\_  
Ray L. Watts, M.D.  
President  
The University of Alabama at  
Birmingham

Prepared  
by:

  
\_\_\_\_\_  
Kevin Jaquess, CCIM  
Senior Real Estate Officer  
The University of Alabama at  
Birmingham

**Exhibit F**  
**Courtyard by Marriott Renewal Franchise Agreement**

**MEMORANDUM**

**DATE:** November 28, 2025

**TO:** Dawn Bulgarella, CEO UAB HEALTH SYSTEM

**FROM:** Kevin Jaquess, CCIM  
Senior Real Estate Officer 

**RE:** Courtyard by Marriott Hotel – 1820 5<sup>th</sup> Avenue South, Birmingham, AL  
35233)

The Courtyard by Marriott Hotel was acquired by UAB Hospital in April 2017. The Hospital partnered with Pyramid Hotel Group (also manages Hilton Hotel) to manage the hotel post-acquisition. Additionally, UAB executed a ten (10) year (April 2017 – April 2027) Franchise Agreement with Marriott. Per the Franchise Agreement, Marriott issues periodic PIP's (Property Improvement Plan) in order to maintain Marriott standards.

On December 13, 2024, a Board of Trustee-approved Amendment to Courtyard by Marriott Franchise Agreement was executed. This Amendment included a reduction to the scope of work of the Marriott-issued PIP in return for an early ten (10) year renewal (April 2027–April 2037) to the Courtyard by Marriott Franchise Agreement.

The 2024/2025 PIP has been completed and Marriott has issued a Renewal Franchise Agreement with a term to commence April 2027 through April 26, 2037. The royalty fee will remain at 6% of Gross Room Sales. The Marketing Fund Contribution will remain at 2% of Gross Room Sales. The next PIP is to be completed by June 28, 2032.

The Courtyard has been a complimentary addition to the Hospital in providing convenient guest rooms to patients and patient families. An early renewal/extension of the Marriott Franchise Agreement will enable the Hospital to defer substantial capital expenditures for the property. Also, it will provide additional time for the Hospital to plan for the next scheduled PIP in 2032. Finally, the continued partnership with Marriott will sustain hotel brand recognition as well as the guest reservation/reward programs.

It is my recommendation that we seek approval from the Physical Properties Committee and the Board of Trustees at the next scheduled meeting to execute the Courtyard by Marriott Renewal Franchise Agreement.

cc.  
Susan Jennings  
Arpan Limdi

**FACILITIES DIVISION**  
Office of Real Estate

168 Facilities Administration Building | 801 6th Avenue South  
Mailing Address:  
FAB 168 | 1720 2ND AVE SOUTH | BIRMINGHAM AL 35294-4554  
phone: 205.934.6998  
[www.uab.edu/facilities/real-estate-services](http://www.uab.edu/facilities/real-estate-services)

**EXECUTIVE SUMMARY  
PROPOSED REAL ESTATE ITEM  
BOARD OF TRUSTEES EXECUTIVE SUBMITTAL**

Meeting Date: December 18, 2025

**CAMPUS:** University of Alabama at Birmingham UAB Project # 160037RE

**PROPERTY NAME:** Courtyard by Marriott Hotel

**LOCATION:** 1820 5<sup>th</sup> Avenue South, Birmingham, AL 35233

**ACQUISITION METHOD:**  Gift  Purchase  Other

**Proposed Acceptance Date**      N/A      **Price**    N/A

**LEGAL DESCRIPTION:** Lot 2A, in Block 160 Resurvey No. 3 as recorded in Map Book 211, page 58, in the Office of the Judge of Probate of Jefferson County, Alabama.  
Lot 2B, in Block 160 Resurvey No. 3 as recorded in Map Book 211, page 58, in the Office of the Judge of Probate of Jefferson County, Alabama.  
Locator Map (Attachment No. 1)

**LOT SIZE:** Approximately .72 acres (31,350 square feet).

**IMPROVEMENTS:** A six-story 122 room Courtyard by Marriott Hotel (74,867 square feet) and 25 parking space surface lot. The hotel also includes approximately 1,982 square feet of meeting space, business center and fitness center.

**ENVIRONMENTAL SURVEY:** Bhate Geosciences Corporation completed a Phase I study on January 23, 2017 with no further investigations recommended.

**CONDITION OF PROPERTY:** Constructed in 2005, the property is in very good condition. A \$1.2M PIP (Property Improvement Plan) was completed post-acquisition in 2017. Subsequently, an \$800K PIP was completed the Summer 2025. Per the Franchise Agreement, Marriott issues periodic PIPs in order to maintain Marriott standards.

**OPERATION:** Pyramid Hotel Group assumed the management of the hotel in April 2017. Pyramid operates over 80 hotels nationwide, including university-owned hotels. As a component of the acquisition in 2017, UAB executed a ten (10) year (April 2017 – April 2027) Franchise Agreement with Marriott.

**APPRAISAL VALUE:** CB Richard Ellis completed an appraisal for the property on January 23, 2017 at a value of \$30,000,000.

**LICENSED APPRAISER:**

CB Richard Ellis – Daniel A. Lincoln (AL Cert. No. G01129)

**JUSTIFICATION:**

The Courtyard by Marriott Hotel was acquired by UAB Hospital in April 2017. Post-acquisition, the Hotel has been a complimentary addition to the Hospital in providing convenient guest rooms to patients and patient families. On December 13, 2024 the Hospital executed an Amendment to Courtyard by Marriott Franchise Agreement, which was approved at the November 2024 Board of Trustee meeting. This Amendment included a reduction to the scope of work of the Marriott-issued PIP in return for an early ten (10) year renewal (April 2027–April 2037) to the Courtyard by Marriott Franchise Agreement.

The 2024/2025 PIP has been completed and Marriott has issued a Renewal Franchise Agreement with a term commencing April 2027 through April 26, 2037. The royalty fee will remain at 6% of Gross Room Sales. The Marketing Fund Contribution will remain at 2% of Gross Room Sales. The next PIP is to be completed by June 28, 2032.

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**OWNERSHIP TITLE:**

The Board of Trustees of the University of Alabama, acting through its UAB operating division for the benefit of University Hospital.

**ACQUISITION METHOD:**

- Cash
- Trade
- Gift

**Closing Date:** N/A

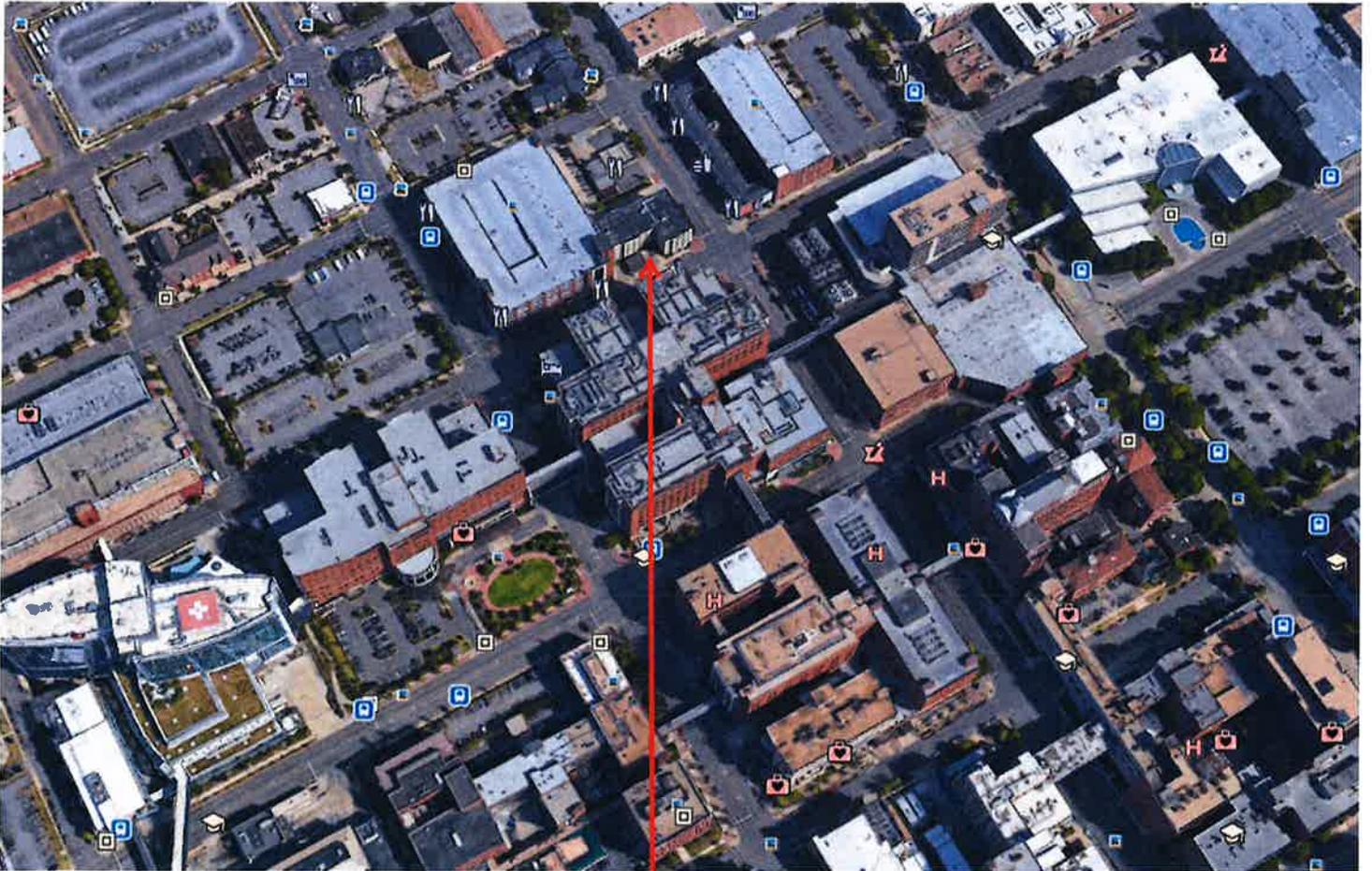
**OTHER ATTACHMENTS:**

Proposed Board Resolution to Authorize Campus to Execute Courtyard By Marriott Renewal Franchise Agreement

List of Attachments:

1. Locator Map
2. Courtyard By Marriott Renewal Franchise Agreement





**Courtyard by Marriott Hotel – 1820 5<sup>th</sup> Avenue South, Birmingham, Alabama 35233**



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## COURTYARD BY MARRIOTT RENEWAL FRANCHISE AGREEMENT

**FRANCHISOR:** MIF, L.L.C.

**FRANCHISEE:** THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ALABAMA, A PUBLIC CONSTITUTIONAL CORPORATION OF THE STATE OF ALABAMA, ACTING THROUGH ITS UAB OPERATING DIVISION FOR THE BENEFIT OF UNIVERSITY HOSPITAL

**LOCATION:** 1820 5TH AVENUE SOUTH, BIRMINGHAM, ALABAMA  
35233

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## RENEWAL FRANCHISE AGREEMENT

This Agreement between Franchisor and Franchisee is executed and becomes effective on the Effective Date.

### RECITALS

A. Franchisor owns the System and Franchisee has requested a license to use the System to operate the Hotel as a System Hotel at the Approved Location.

B. Franchisor has agreed to grant a license to Franchisee subject to the terms of this Agreement.

C. Franchisee is or will be the owner of fee simple title to the Approved Location, and Franchisor has waived its requirement of delivery of a full Guaranty of Franchisee's obligations under this Agreement in reliance on such ownership.

NOW, THEREFORE, in consideration of the promises in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Franchisor and Franchisee agree as follows:

### 1. LICENSE

**1.1 Limited Grant.** Franchisor grants to Franchisee a limited, non-exclusive license to use the Proprietary Marks and the System to operate the Hotel as a System Hotel at the Approved Location under the terms of this Agreement.

#### **1.2 Franchisor's Reserved Rights.**

A. *Development Activities.* Franchisee agrees that Franchisor and its Affiliates reserve the right to conduct Development Activities at any location, other than the Approved Location, without notice to Franchisee, subject to Item 9 of Exhibit A. Franchisee will not do anything that may interfere with Franchisor's and its Affiliates' Development Activities.

B. *Territorial Rights.* Franchisee agrees that it is not entitled to any territorial rights or exclusivity, except as stated in Item 9 of Exhibit A.

C. *Use of the System.* Franchisee acknowledges that Franchisor and its Affiliates may allow other Franchisor Products to use various parts of the System, including under affiliation or marketing agreements.

### 2. TERM

**2.1 Term.** The term of this Agreement is stated in Item 4 of Exhibit A (the "Term").

**2.2 Not Renewable.** This Agreement expires on the last day of the Term, and the rights granted under it are not renewable and Franchisee has no expectation of any right to extend the Term.

### 3. FEES, CHARGES AND COSTS

**3.1 Application Fee; Expansion Fee.** Franchisee has paid Franchisor the non-refundable application fee stated in Item 10 of Exhibit A (the "Application Fee"). If Franchisor approves an increase

in the number of Guestrooms in the Hotel under Section 4.1, Franchisee will pay the then-current per-Guestroom expansion fee, multiplied by the number of additional Guestrooms.

**3.2 Franchise Fees.** Beginning on the Effective Date, Franchisee will pay Franchisor for each month an amount equal to the percentage of Gross Room Sales stated in Item 11 of Exhibit A for such month (the “Franchise Fees”). Franchisee will not offer complimentary or reduced-price Guestrooms to benefit any other business at or outside of the Hotel.

**3.3 Franchisor Travel Costs.** If Franchisor requests, Franchisee will reimburse Franchisor for all Travel Costs for individuals designated by Franchisor to conduct training, inspections, audits, or other services for the Hotel, including counseling and advisory services, which will not exceed the amounts permissible under Franchisor’s corporate travel policies.

**3.4 Other Fees, Charges and Costs.** Franchisee will pay the fees, charges and costs required under this Agreement and any other Marriott Agreement, and will pay for any optional programs in which it participates. Franchisee will also pay Franchisor for any goods or services purchased, leased or licensed by Franchisee from Franchisor, including any costs related to purchasing, installing and upgrading any Electronic Systems. The Franchise Fees and Application Fee are personal to Franchisee and are as stated in this Agreement; all other fees, charges and costs under this Agreement and any other Marriott Agreement (and any applicable changes) will be computed on a fair and consistent basis among similarly situated System Hotels. Franchisor may change such other fees, charges and costs to reflect any change in (i) the costs of providing, or the scope of, the relevant goods, programs or services; (ii) the method Franchisor uses to determine allocation of the applicable charges; or (iii) the competitive needs of the System.

**3.5 Timing of Payments and Performance of Services.**

A. *Timing of Payments.* Franchise Fees are due within 15 days after the end of each month. All other payments are due as invoiced. All payments will be made in immediately available funds, at the location and in the manner designated by Franchisor (which may include payment through electronic funds transfers or centralized payment processing programs as specified by Franchisor, in which case Franchisee will execute any documents, pay any fees and costs, and take any other action required by Franchisor to effect such payment).

B. *Affiliates and Designees.* Any service or obligation of Franchisor under this Agreement may be performed by an Affiliate or designee of Franchisor. Franchisor may designate that payment be made to the Person performing the service. Any reference in this Agreement to Franchisor concerning payments or performance of services includes such Affiliates and designees. Any designation for the performance of services will not relieve Franchisor or Franchisee of any of their obligations under this Agreement.

C. *Right of Set-Off.* Franchisor may set-off or deduct any amounts owed to Franchisor or any of its Affiliates by Franchisee or any of its Affiliates from amounts that would otherwise be payable to Franchisee under this Agreement.

D. *Transition Accounting Period Allocations.* For the month in which the Effective Date occurs (the “Transition Accounting Period”), Franchisee must pay all amounts invoiced by Franchisor or its Affiliates with respect to the operation of the Hotel for the entire Transition Accounting Period as though the term of this Agreement had begun on the first day of the Transition Accounting

Period, without duplication of amounts invoiced by Franchisor pursuant to the previous franchise agreement related to any portion of the Transition Accounting Period.

E. *Transition Accounting Period Franchise Fees.* For purposes of calculating the Franchise Fees due with respect to Gross Room Sales for the Transition Accounting Period, Franchisor may, in its sole discretion, apply the percentage rate that was in effect for the Hotel immediately before the Effective Date (the “Previous Rate”) in lieu of the Franchise Fees required by Item 11 of Exhibit A, but only if the Previous Rate is less than the percentage rate stated in Item 11 of Exhibit A.

**3.6 Interest on Late Payments.** Franchisee will pay interest on any amount that is not paid when due. Interest will accrue at a rate of 18% per annum (or, if less, the maximum interest rate permitted by Applicable Law) from the date such overdue amount was due until paid. Franchisor’s right to receive interest is in addition to any other remedies Franchisor may have.

**3.7 Program Services Contribution.**

A. *Program Services.* Beginning on the Effective Date, Franchisee will pay Franchisor each month the Program Services Contribution. Franchisor will use the Program Services Contribution to fund certain mandatory programs and services for System Hotels that Franchisee would otherwise be required to pay for separately (“Program Services”), which include, to the extent described in the Disclosure Document:

1. Marketing Fund Activities;
2. development, modification, maintenance, support, administration and operation of certain mandatory Electronic Systems;
3. development, operation, administration and oversight of certain other mandatory programs and services; and
4. the retention or employment of personnel, consultants and other professionals to assist in the development, implementation and administration of Program Services, including collection and accounting of the Program Services Fund, as well as overhead, other costs incurred in providing Program Services, and the reimbursement of capital invested in the development of such Program Services, together with costs incurred by Franchisor to finance such capital.

Franchisor may modify Program Services from time to time. Unless otherwise determined by Franchisor, Program Services do not include services or costs relating to the purchase, installation or deployment of, or training for, any Electronic System.

B. *Marketing Fund Contribution.* Beginning on the Effective Date, Franchisee will pay Franchisor for each month an amount equal to the percentage of Gross Room Sales stated in Item 12.A of Exhibit A for such month, which Franchisor will use for the Marketing Fund Activities (the “Marketing Fund Contribution”). The Marketing Fund Contribution will be paid by Franchisee as part of the Program Services Contribution. Franchisor may (i) change the method of funding the Marketing Fund Activities (including by establishing methods of funding Marketing Fund Activities other than by the Marketing Fund Contribution or the Program Services Contribution); (ii) change the amount of the Marketing Fund Contribution, subject to Item 12.B of Exhibit A (without any obligation to make a corresponding change to the total Program Services Contribution); (iii) change the local, country, regional, continental or international scope of the Marketing Fund or the Marketing Fund Activities; (iv) merge or separate the Marketing Fund with marketing funds used to benefit other Franchisor Products; or

(v) discontinue any Marketing Fund Activities, and Franchisee will be bound by any and all such changes.

C. *Permitted Changes.* Franchisor may at any time: (i) change the method of funding Program Services (including by establishing methods of funding Program Services other than by the Program Services Contribution); (ii) change the programs and services covered by the Program Services Contribution; (iii) change the amount of the Program Services Contribution or the method of calculation of the Program Services Contribution; (iv) merge or operate the Program Services Fund together with program services funds used to benefit other Franchisor Products; or (v) discontinue the use of the Program Services Contribution to fund any one or all mandatory programs or services for System Hotels, and Franchisee will be bound by any such changes.

D. *Benefits.* Franchisor may use the Program Services Fund to cover the costs of Program Services for System Hotels as a whole, groups of System Hotels, and other Franchisor Products. Franchisor has no obligation to ensure that any particular System Hotel, including the Hotel, benefits from Program Services on a pro-rata or other basis or that the Hotel will benefit from Program Services proportionate to the Program Services Contribution paid by Franchisee.

E. *No Fiduciary Duty.* Franchisor and its Affiliates do not hold the Program Services Fund or the Marketing Fund as a trustee or as trust funds and have no fiduciary duty to Franchisee for such funds. The Program Services Contribution and Marketing Fund Contribution may be commingled with other money of Franchisor and its Affiliates and used to pay all costs, including administrative costs, salaries and overhead, and collection and accounting costs, incurred by Franchisor or any of its Affiliates for the Program Services Fund or Marketing Fund, respectively. Franchisor or its Affiliates may: (i) loan money for Program Services and Marketing Fund Activities and charge interest on any such loan; and (ii) use the Program Services Contribution or the Marketing Fund Contribution to repay any such loan plus interest. On request, Franchisor will provide to Franchisee a statement of operations presenting the revenues and expenses of the Program Services Fund and the Marketing Fund (which statement may be audited or unaudited in Franchisor's sole discretion) for any fiscal year of Franchisor if such request is made between 90 and 180 days after the end of such fiscal year.

#### 4. HOTEL CONSTRUCTION, DESIGN, RENOVATION AND MAINTENANCE

**4.1 Number of Guestrooms; Expansion.** The Hotel will have the number of Guestrooms stated in Item 7 of Exhibit A or such other number approved by Franchisor. Franchisee may expand the Hotel or build additional Guestrooms in compliance with this Agreement only with Franchisor's prior written approval. If additional Guestrooms are approved, Franchisee will pay an expansion fee under Section 3.1.

**4.2 Initial Construction or Renovation of the Hotel.** Franchisee will timely start and complete the initial construction or renovation of the Hotel, as applicable, to Franchisor's satisfaction in accordance with Section 4.4, Exhibit C and the Standards (the "Initial Work").

**4.3 Periodic Renovations.** Franchisee will timely start and complete the periodic renovation of all Guestrooms and Public Facilities to Franchisor's satisfaction in accordance with Section 4.4 and the Standards, including replacing Soft Goods and Case Goods periodically as required by the Standards ("Periodic Renovations"). At the time of any replacement of FF&E, Franchisor may require Franchisee to upgrade the rest of the Hotel to conform to the Standards applicable to similarly situated System Hotels.

**4.4 Design Process.** Franchisee will obtain the Design Criteria from Franchisor within 10 days of the Effective Date for the Initial Work, and in a timely manner for any Periodic Renovation. In connection with the Initial Work and any Periodic Renovation, Franchisee will pay to Franchisor its then-current fees and comply with the following requirements (the “Design Process”):

A. *Design Team.* For the Initial Work, and as needed for Periodic Renovations, Franchisee will retain a qualified registered architect, engineer and interior designer, and based on the nature of the project, Franchisor may require that Franchisee retain other specialty consultants. Franchisee will provide Franchisor the name, address and relevant work experience on similar projects for any such Person that Franchisee proposes to retain, and Franchisor will have 30 days after receipt of such information to notify Franchisee of its election to consent or withhold its consent. Franchisor’s election to consent or withhold its consent will be based on prior experiences with such Person and such Person’s reputation and experience on similar projects. Franchisor may charge its then-current fee for reviewing any interior designer that is not included on Franchisor’s list of recommended interior designers for the Hotel, if any. If Franchisor does not respond to Franchisee within 30 days after Franchisor’s receipt of such information, then Franchisee may retain such Person. Neither Franchisor’s failure to respond nor Franchisor’s consent to the use of such Person will be deemed an endorsement or recommendation by Franchisor. Franchisor is not liable for the unsatisfactory performance of any Person retained by Franchisee.

B. *Submission of Plans.* For the Initial Work and Periodic Renovations, Franchisee will adapt the Design Criteria to the Hotel and Applicable Law, including Accessibility Requirements. For the Initial Work, and if Franchisor requests for any Periodic Renovations, Franchisee will prepare and submit Plans electronically in the phases and with the detail required by the Standards. The Plans will not deviate from the Design Criteria unless previously approved by Franchisor, and any such deviations will be clearly designated in a separate document delivered along with the Plans.

C. *Review of Plans.* Franchisor will promptly review the Plans only for compliance with the Design Criteria and any applicable property improvement plan, and in the case of the Initial Work, to confirm that the number, configuration and location of Guestrooms and the size, configuration and location of Public Facilities are as previously approved by Franchisor. If Franchisor determines that the Plans do not satisfy such requirements, Franchisor may require changes and Franchisee will deliver revised Plans incorporating such changes. If Franchisor determines that the Plans are incomplete, Franchisor may defer its review of the Plans until it receives complete Plans. Franchisee will not begin the Initial Work or any Periodic Renovation requiring submission of Plans until Franchisor confirms in writing that such Plans comply with such requirements. On receipt of Franchisor’s confirmation, Franchisee will promptly submit the final Plans electronically. Once finalized, the Plans will not be changed without Franchisor’s prior consent. Franchisee will ensure that the renovation of the Hotel is completed in accordance with the Plans.

D. *Compliance with Applicable Law.* Franchisee (and not Franchisor or its Affiliates) is responsible for ensuring that the Plans comply with Applicable Law, including Accessibility Requirements. Franchisor and its Affiliates will have no liability or obligation concerning the means, methods or techniques used in constructing or renovating the Hotel. Franchisee will not reproduce, use or permit the use of any Design Criteria or Plans other than for the Hotel.

**4.5 Maintenance.** Franchisee will maintain the Hotel in good repair and first-class condition and in conformity with Applicable Law, the Standards and Exhibit C. Franchisee will make repairs, alterations and replacements to the Hotel as required by the Standards. Franchisee will not make

any material alterations to the Hotel without Franchisor's prior consent, unless such alterations are required by Applicable Law or for the continued safe and orderly operation of the Hotel.

## **5. FURNITURE, FIXTURES, EQUIPMENT, INVENTORIES AND SUPPLIERS**

**5.1 Uniformity of System.** Franchisee will use only such FF&E, Inventories and Fixed Asset Supplies that comply with the Standards. The requirements of this Section 5.1 are to ensure that items used at System Hotels are uniform and of high quality to maintain the identity, integrity and reputation of the System. Before purchasing FF&E to be used in constructing or renovating the Hotel, if requested by Franchisor, Franchisee will prepare furnished models of Guestrooms, color boards and drawings for Franchisor's confirmation that such proposed FF&E will meet the Standards. Franchisor will promptly respond to Franchisee's proposal.

**5.2 Suppliers.** Franchisor may designate suppliers, including Franchisor, for certain items related to FF&E, Inventories and Fixed Asset Supplies. Franchisee may propose new suppliers by delivering sufficient information and samples for Franchisor's confirmation that such item meets the Standards and the proposed supplier is capable of providing such item in accordance with the Standards. Franchisor may require: (i) reimbursement for the cost of such review; (ii) that such supplier have insurance protecting Franchisor and Franchisee; and (iii) that any supplier using the Intellectual Property enter into an agreement for its use. Franchisor will have no liability for damage to any sample. Franchisor may refuse to permit future purchases if the supplier fails to meet the requirements of this Section 5.2 or the Standards.

## **6. ADVERTISING AND MARKETING; PRICINGS, RATES AND RESERVATIONS**

### **6.1 Franchisee's Local Advertising and Marketing Programs.**

A. *Local Advertising.* Franchisee will undertake local advertising, marketing, promotional, sales and public relations programs and activities for the Hotel, including preparing and using any Marketing Materials, in accordance with the Standards.

B. *Use of Signs and Marketing Materials.* Franchisee will use signs and other Marketing Materials only in the places and manner approved or required by Franchisor and in accordance with the Standards and Applicable Law. Franchisee will deliver samples of Marketing Materials not provided by Franchisor and obtain prior approval from Franchisor before any use. If Franchisor withdraws its approval, Franchisee will promptly stop using such Marketing Materials. Any Marketing Materials developed by Franchisee may be used or modified by other Franchisor Products without compensation to Franchisee.

**6.2 Additional Marketing Programs.** Franchisor may provide, and Franchisee will participate in, Additional Marketing Programs that are mandatory for similarly situated System Hotels. Franchisee may elect to participate in optional Additional Marketing Programs. Franchisee will pay for Additional Marketing Programs in which it participates on the same basis as other participating System Hotels.

### **6.3 Pricing, Rates and Reservations.**

A. *Pricing and Rates.* Franchisee is responsible for setting its own prices and rates for Guestrooms and other products and services at the Hotel, including determining any prices or rates that appear in the Reservation System. Franchisor may, however: (i) prohibit certain types of charges or billing practices that Franchisor determines are misleading or detrimental to the System, including

price-gouging or incremental fees for services that guests would normally expect to be included in the Guestroom charge; (ii) require that Franchisee price consistently in all distribution channels; or (iii) impose other pricing requirements permitted or required by Applicable Law.

B. *Pricing Recommendations; Participation in Programs.* Franchisor may recommend prices or rates for the products and services offered by Franchisee or require participation in various sales or inventory management programs or promotions offered by Franchisor. Franchisor's recommendations are not mandatory; Franchisee is ultimately responsible for determining the prices or rates at which it offers its products and services, and Franchisor's recommendations are not a representation or warranty by Franchisor that the use of such recommended prices or rates will produce, increase, or optimize Franchisee's profits. Franchisor will have no liability for any such recommendations, including those made in connection with any sales activity or Inventory Management. Franchisor may require Franchisee to participate in Inventory Management or may act as Sales Agent for Franchisee. If Franchisor is acting as Sales Agent for Franchisee, Franchisee consigns hotel inventory to Franchisor, and Franchisee retains all risk of loss of unsold inventory or inventory sold at a reduced price.

C. *Honoring Reservations.* Franchisee will provide its prices and rates for use in the Reservation System in accordance with the Standards. Franchisee will: (i) honor any prices, rates or discounts that appear in the Reservation System or elsewhere; (ii) honor all reservations made through the Reservation System or that are confirmed; and (iii) not charge any Hotel guest a rate higher than the rate specified for the Hotel guest's reservation in the Reservation System or, if not made through the Reservation System, in the reservation confirmation or contract. Franchisee will also honor all pricing and terms for any other product or service offered in connection with the Hotel.

## 7. ELECTRONIC SYSTEMS

7.1 **Systems Installation and Use.** At its cost, Franchisee will (i) obtain, install, maintain, use and replace at the Hotel all mandatory Electronic Systems (and optional Electronic Systems that Franchisee elects to use) in compliance with the Standards or other approved specifications, and (ii) take any other actions required by the Standards to protect the Electronic Systems and the data stored or communicated via the Electronic Systems. Franchisee will pay all Electronic Systems Fees, some of which will be paid as part of the Program Services Contribution. Franchisee will comply with any end-user terms related to any of the Electronic Systems. Franchisee will not use the Electronic Systems for any purpose except for operating the Hotel under this Agreement.

7.2 **Reservation System.** Subject to Section 19.3, Franchisor will make the Reservation System available to the Hotel. Franchisee will cause the Hotel to participate in the Reservation System in accordance with the Standards and this Agreement. Franchisor is not required to make the Reservation System available to the Hotel for any reservations occurring after the expiration or termination of this Agreement.

### 7.3 **Electronic Systems.**

A. *Ownership.* Franchisee acknowledges that the Electronic Systems may be proprietary to Franchisor or third-party vendors. The Electronic Systems that are proprietary to Franchisor or third-party vendors, as applicable, will remain their sole property, and Franchisee will not contest such ownership. Franchisee acknowledges that the Electronic Systems may be modified, enhanced, replaced, discontinued or become obsolete, and new Electronic Systems may be created to meet the needs of the System and changes in technology. Any license or access to any Electronic System provided pursuant to this Agreement will terminate upon the earlier of (i) termination of this Agreement

or (ii) when such Electronic System is no longer used as part of the System. Franchisor reserves the right to suspend Franchisee's access to any Electronic System for noncompliance with any end-user terms, or in order to protect the Intellectual Property or the intellectual property of third-party vendors. Franchisee waives all claims against Franchisor and its Affiliates arising from any such suspension.

B. *Support Services.* Franchisor will use commercially reasonable efforts to maintain and support the Electronic Systems (the "Support Services") during the term of this Agreement. The Support Services may be provided by Franchisor, its Affiliates or third-party vendors.

C. *Confidentiality Obligations.* Subject to the requirements of Section 12 of this Agreement, Franchisee will ensure that only authorized Persons have access to the Electronic Systems and that the Electronic Systems are only used for their intended purpose. Franchisee will not, without the consent of Franchisor and any applicable third-party vendor, copy, reverse engineer, modify or provide unauthorized access to the Electronic Systems or any of its components. Franchisee will not attempt to disregard or circumvent any measures used by Franchisor to safeguard the Electronic Systems and the Intellectual Property.

**7.4 Access to Information.** Franchisor may access the information contained in the Electronic Systems and Franchisee will take all actions reasonably necessary to provide such access. Franchisor and its Affiliates may use any information contained in or obtained through the Electronic Systems, including Guest Personal Data.

**7.5 Third-Party Vendors.** Any third-party vendor of Electronic Systems will have the right to enforce any end-user terms directly against Franchisee. Franchisor will have no liability for Franchisee's use of any Electronic System provided by a third-party vendor. Franchisee may be required to execute agreements with third-party vendors and comply with any privacy and security or other standards in order to obtain access to certain Electronic Systems. Franchisor may designate a third-party vendor of the Electronic Systems as a preferred vendor and require Franchisee to use the Electronic Systems provided by the preferred vendor.

**7.6 Software License Rights Upon Termination.** The Software that Franchisee will purchase, access or obtain through Franchisor is generally not assignable to Franchisee upon termination of this Agreement ("Non-Assignable Software"). When this Agreement terminates, Franchisee will not have any right to use the Non-Assignable Software. At Franchisee's request, Franchisor will use reasonable efforts to facilitate the assignment of any Software that is assignable ("Assignable Software"). On termination of this Agreement, Franchisee will delete both Assignable Software and Non-Assignable Software obtained through Franchisor. Franchisee may reinstall Assignable Software using copies obtained by Franchisee directly from the applicable vendor.

**7.7 Technology Audit or Inspection.** At Franchisor's request, Franchisee will provide Franchisor and its authorized representatives access to any facility or system from which Franchisee, or any of its Affiliates or their respective agents, have installed or are accessing the Electronic Systems, and to any data, records, and the systems themselves (including removal of such systems and the data therein) relating to the Electronic Systems, for audit or inspection purposes. Franchisee will cooperate in and provide any assistance reasonably required for such audits or inspections.

**7.8 Limitation on Liability.** Franchisor is not liable for any loss or damage arising out of the use or failure of any Electronic Systems or Support Services, including corruption or loss of data, and Franchisee waives any right to, or claim of, any direct, exemplary, incidental, indirect, special, consequential or other similar damages (including loss of profits) in connection with the use, inability to use, breach or failure of any Electronic Systems or Support Services, even if Franchisor has been advised

of the possibility of such damage, breach or failure. To the extent permissible, Franchisor will use reasonable efforts to make available for Franchisee any warranties or other similar protections provided by Franchisor's vendors with respect to the Electronic Systems.

**7.9 NO WARRANTY. FRANCHISOR DOES NOT MAKE ANY REPRESENTATION OR WARRANTY ABOUT ANY ELECTRONIC SYSTEM. FRANCHISOR PROVIDES THE ELECTRONIC SYSTEMS AND THE SUPPORT SERVICES ON AN AS-IS BASIS. FRANCHISOR DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND CUSTOM OR USAGE IN THE TRADE, RELATED TO FRANCHISEE'S USE OF THE ELECTRONIC SYSTEMS AND THE SUPPORT SERVICES.**

## **8. HOTEL OPERATIONS**

### **8.1 Operator of the Hotel.**

A. *Franchisor Consent Required.* The Hotel will be operated only by the Person consented to by Franchisor in a Management Company Acknowledgment. Franchisor may withhold its consent to any proposed management company that: (i) Franchisor determines (a) is not financially capable or (b) does not have the managerial skills or operational capacity required to operate the Hotel in accordance with the Standards and this Agreement; (ii) does not provide Franchisor with all information and access that Franchisor reasonably requests; or (iii) is not a Qualified Person. Franchisor has the right to review any management agreement between Franchisee and its proposed management company. In the event of any conflict between this Agreement and any agreement with the Management Company, this Agreement will control. Franchisee will at all times be responsible for complying with the obligations of this Agreement even though Franchisee may retain a Management Company.

B. *Conditions for Consent.* Franchisor may condition its consent to any proposed management company, including requiring participation in one or more programs. Franchisee will execute such documents as required by Franchisor to effectuate participation in such programs and pay the cost of any such programs. If any amendment to this Agreement is required in connection with a change in management company, Franchisee will pay Franchisor's outside counsel costs related to such amendment. Franchisor's consent may be withdrawn at any time if Franchisor determines that such Person no longer satisfies any conditions required by this Agreement, the Management Company Acknowledgment or the Standards.

C. *Change in Circumstances.* If there is a change of Control of the Management Company or if the Management Company is no longer a Qualified Person, or if Management Company becomes the principal operator for a Competitor or if there is a material adverse change to the financial condition or operational capacity of the Management Company, Franchisee will promptly notify Franchisor of any such event of which it becomes aware together with such additional information that Franchisor may reasonably request. Based on these changed circumstances, Franchisor may require Franchisee to terminate its agreement with such Management Company and retain a replacement management company that will be subject to Franchisor's consent. After Franchisor receives such notice and any such additional information Franchisor reasonably requests, Franchisor will respond to Franchisee within 30 days.

## **8.2 Employees.**

A. *Hotel Staffing.* Franchisee will ensure that suitable qualified individuals are employed at the Hotel sufficient to staff the Hotel. Managers at the Hotel will devote their full time to the management and operation of the Hotel and supervision of employees.

B. *Hotel Employment Matters.* All employment decisions at the Hotel will be made solely by Franchisee or the Management Company. Franchisor does not direct or control the employment policies or decisions for the Hotel. All employees at the Hotel are solely employees of Franchisee or the Management Company, not Franchisor, and neither Franchisee nor the Management Company is Franchisor's agent for any purpose with regard to Hotel employees. Franchisee or the Management Company will promptly inform Franchisor whenever it hires a general manager.

C. *Communication with Managers and Management Company.* Franchisor may communicate directly with the managers at the Hotel and the Management Company about day-to-day operations of the Hotel and Franchisor may rely on such statements of the managers and Management Company. Such communications will not affect the requirements of Section 25 or Section 27.7. Franchisor will under no circumstances direct or control such Hotel operations.

## **8.3 Compliance with the Standards.**

A. *Required Activities.* Franchisee will: (i) operate the Hotel at all times in compliance with the Standards; (ii) fully participate in the Quality Assurance Program and all mandatory programs for System Hotels (which may require providing complimentary guestrooms and refunds); (iii) offer all guest services required for System Hotels (which may include complimentary services); (iv) make all payments due in accordance with the terms of all contracts and invoices related to the Hotel, except for payments that are disputed in good faith; and (v) provide all food and beverage service in the Hotel in compliance with the Standards and Applicable Law, and pay the F&B Support Fee to Franchisor.

B. *Prohibited Activities.* Except as permitted in the Standards, Franchisee will not, without Franchisor's prior approval: (i) knowingly permit gambling to take place at the Hotel or use the Hotel for any casino, lottery, or other type of gaming activities, or directly or indirectly associate with any gaming activity; (ii) knowingly permit adult entertainment activities at the Hotel; or (iii) sell, display or use in the Hotel any vending machines, honor bars, video or other entertainment devices or similar products. Franchisee will not take any action that may result in the establishment of a landlord/tenant relationship with any Hotel guest under Applicable Law or that may cause Franchisor or any of its Affiliates to become a real estate agent or broker under Applicable Law.

C. *Inspection Rights.* Franchisee will permit Franchisor's representatives to enter and inspect the Hotel at all reasonable times to confirm that Franchisee is complying with the terms of this Agreement and the Standards, and to test the equipment, food products and supplies at the Hotel. In conducting such inspections, Franchisor will not unduly interfere with the operation of the Hotel. Franchisee will pay all fees and costs related to such inspections to the extent not covered by the Program Services Contribution. Franchisee will pay all on site costs of third-party inspectors.

#### **8.4 System Promotion; No Diversion to Other Businesses.**

A. *System Promotion.* Franchisee will use reasonable efforts to encourage and promote the use of System Hotels and will refer reservation requests that cannot be fulfilled by the Hotel to other System Hotels or Franchisor Products in accordance with the Standards.

B. *No Diversion to Other Businesses.* Franchisee will not use (or permit any other Person to use) any part of the Hotel for any business or use other than operating a System Hotel without Franchisor's prior consent, except as expressly contemplated in Item 8 of Exhibit A. Franchisee will not use any part of the Hotel or the System to divert business to, or promote, any other business at or outside of the Hotel, except, if approved by Franchisor, Vacation Club Products operated under a trade name or trademark owned by Franchisor or any of its Affiliates. This prohibition includes advertising hotels, Vacation Club Products or any similar product sold on a periodic basis not operated under a trade name or trademark owned by Franchisor or any of its Affiliates (including those which Franchisee or its Affiliates operate or in which they have an Ownership Interest).

#### **9. TRAINING, COUNSELING AND ADVISORY SERVICES**

**9.1 Training.** The Hotel will at all times be managed by personnel who have successfully completed all mandatory training under the Standards. Franchisor may offer optional training related to operating System Hotels. Franchisee will pay (i) all tuition, supplies, and Travel Costs and allocations of internal costs and overhead of Franchisor and its Affiliates for any training in which Franchisee participates; (ii) an annual charge based on an allocation among System Hotels for the costs of developing and providing such training; and (iii) a charge for the general manager conference, regardless of whether Franchisee's personnel attend. Franchisee will provide training required by Franchisor for personnel working at the Hotel.

**9.2 Counseling and Advisory Services.** Franchisor will make representatives available at Franchisor's designated offices or at the Hotel to consult with Franchisee about the design and operation of the Hotel as a System Hotel. Franchisor may require Franchisee to pay the Travel Costs of such representatives who consult at the Hotel.

#### **10. SYSTEM AND STANDARDS; FRANCHISEE ASSOCIATION**

**10.1 Compliance with System and Standards.** Franchisee agrees that conformity with all aspects of the System and the Standards is essential to maintain the uniform quality and guest service of System Hotels. Franchisee will comply at all times with the Standards (including paying amounts owed pursuant to the Standards for violations thereof) and operate the Hotel in compliance with the System and the Marriott Agreements. Franchisor will make the Standards available to Franchisee through the Electronic Systems or in such other manner Franchisor deems appropriate. The Standards will at all times remain the sole property of Franchisor and its Affiliates.

**10.2 Modification of the System and Standards.** Franchisor and its Affiliates may modify the System and Standards, and such modifications may include materially changing, adding or deleting elements of the System or the Standards. Franchisee agrees that modifications to the System may be made for all System Hotels or for any Category of System Hotels. Franchisor may allocate the costs of System modifications among System Hotels or any Category of System Hotels, and such allocation will be on a fair and consistent basis. Such costs may include development costs and the reimbursement of capital invested in the development of such System modifications, together with costs incurred by Franchisor to finance such capital.

**10.3 Franchisee Association.** If Franchisor creates or approves the creation of an association organized to consider and make recommendations on matters related to the operation of System Hotels (the "Association"), Franchisee, Franchisor and other System Hotel franchisees will be eligible for membership. Franchisee will pay any Association dues and assessments, which will be consistently applied to all System Hotel franchisees. The Association will vote on bylaws and election of officers. Franchisor will regard recommendations of the Association as expressing the consensus of members of the Association.

## **11. PROPRIETARY MARKS AND INTELLECTUAL PROPERTY**

### **11.1 Franchisor's Representations Concerning the Proprietary Marks.**

#### **A. *Representations.*** Franchisor represents that:

1. Franchisor and its Affiliates have the right to grant Franchisee the right to use the Proprietary Marks in accordance with this Agreement; and
2. Franchisor and its Affiliates will take reasonable steps to preserve and protect the ownership and validity of the Proprietary Marks. Franchisor will not be required to maintain any registration for any Proprietary Marks that Franchisor determines, in its sole discretion, cannot or should not be maintained.

**B. *Indemnification for Infringement Claims.*** Franchisor will indemnify and hold Franchisee harmless against claims that Franchisee's use of the Proprietary Marks in accordance with this Agreement infringes the rights of any third party unrelated to Franchisee, if Franchisee: (i) is in compliance with this Agreement, (ii) gives prompt notice of any such claim to Franchisor, (iii) does not interfere with Franchisor's right to have sole control over the defense and settlement of the claim and (iv) cooperates fully with Franchisor in defending or settling the claim. Franchisor and its Affiliates have the right in their sole discretion to have exclusive control over the defense and any settlement of all Claims related to or involving the Proprietary Marks.

### **11.2 Franchisee's Use of Intellectual Property and the System.**

#### **A. *Use of the Intellectual Property and the System.*** Franchisee agrees that:

1. Franchisee will use the Intellectual Property and the System only for the operation of the Hotel and only in the form and manner as provided in the Standards or approved by Franchisor. Franchisee will offer or sell only those goods and services under the Proprietary Marks that are of a nature and quality that comply with the Standards. Any use of the System not authorized by Franchisor will constitute an infringement of Franchisor's rights and a default under Section 19.2 of this Agreement;
2. Franchisee will use the Proprietary Marks only in substantially the same places, combination, arrangement and manner as provided in the Standards or approved by Franchisor, including with respect to the name of the Hotel, which will be as designated or approved by Franchisor (it being understood that Franchisor may change any geographic designation in the name of the Hotel at any time, so long as the Hotel name includes the Proprietary Marks);
3. Franchisee will identify itself as a franchisee or licensee of Franchisor and the owner or operator of the Hotel only in the form and manner as provided in the Standards.

Franchisee will not use any Proprietary Marks in any manner that could imply that Franchisee has an Ownership Interest in the Proprietary Marks;

4. Franchisee has no right to, and will not, Transfer, sublicense or allow any Person to use any part of the System, unless permitted in this Agreement;

5. Franchisee will not use any part of the System to incur any obligation or indebtedness on behalf of Franchisor or any of its Affiliates;

6. Franchisee will not use any of the Proprietary Marks or any names or marks that consist of, contain or are similar to or an abbreviation of any Proprietary Marks, in Franchisor's sole opinion ("Similar Marks"), as part of Franchisee's corporate or legal name, in connection with any business activity except the Hotel, or as a road name or address, whether alone or in combination with Other Marks;

7. Franchisee will not register or apply to register any of the Proprietary Marks or Similar Marks, whether alone or in combination with other trademarks;

8. Franchisee will notify Franchisor of any required business, trade, fictitious, assumed or similar name registration, and indicate in the registration that Franchisee may use such name only in accordance with this Agreement;

9. if litigation involving the Intellectual Property is instituted or threatened against Franchisee, or a claim of infringement involving the Intellectual Property is made against Franchisee, or Franchisee becomes aware of any infringement of the Intellectual Property, Franchisee will promptly notify Franchisor and will cooperate fully in any action, defense or settlement of such matters. Franchisee will not make any demand, serve any notice, institute any legal action or negotiate, litigate, compromise or settle any controversy about any such matter without first obtaining Franchisor's prior consent, which may be withheld in Franchisor's sole discretion. Franchisor will have the right to bring any action and to join Franchisee as a party to any action involving the Intellectual Property;

10. if Franchisor believes, in its sole discretion, that Franchisee's use of the Intellectual Property does not conform with the Marriott Agreements or the Standards, then Franchisee will immediately stop the non-conforming use on notice from Franchisor; and

11. Franchisee will not, and will ensure that its employees and agents do not, take any action or engage in any conduct that is likely to adversely affect the reputation, goodwill, or business of the Hotel, the System, any Franchisor Product or Franchisor. Franchisee will comply with the Standards regarding protection of the reputation of the System, including protection of Intellectual Property, and promptly notify Franchisor of any event that has occurred that is likely to receive or is receiving significant negative public attention, and Franchisee will cooperate with Franchisor in the resolution of, and the public response to, any such matters.

B. *Ownership of the System.* Franchisee agrees that:

1. Franchisor and its Affiliates are the owners or licensees of all right, title and interest in and to the System (except certain Electronic Systems provided by third parties), and all goodwill arising from Franchisee's use of the System, including the Proprietary Marks, will inure solely and exclusively to the benefit of Franchisor and its Affiliates. On the expiration or termination of this

Agreement, no monetary amount will be attributable to any goodwill associated with Franchisee's use of the System;

2. the Proprietary Marks are valid and serve to identify the System and System Hotels, and any infringement of the Proprietary Marks will result in irreparable injury to Franchisor;

3. the Proprietary Marks may be deleted, replaced or modified by Franchisor or its Affiliates in their sole discretion, and Franchisor or its Affiliates may develop additional or substitute Proprietary Marks. Franchisor may require Franchisee, at Franchisee's expense, to discontinue or modify Franchisee's use of any of the Proprietary Marks or to use one or more additional or substitute marks;

4. Franchisee will not directly or indirectly: (i) attack the ownership, title or rights of Franchisor or its Affiliates in the System; (ii) contest the validity of the System or Franchisor's right to grant to Franchisee the right to use the System in accordance with this Agreement; (iii) take any action that could impair, jeopardize, violate or infringe any part of the System; (iv) claim any right, title, or interest in the System except rights granted under this Agreement; or (v) misuse or harm or bring into disrepute the System;

5. Franchisee has no, and will not obtain any, Ownership Interest in any part of the System (including any modifications made by or on behalf of Franchisee or its Affiliates). Franchisee assigns, and will cause each of its employees or independent contractors who contributed to System modifications to assign, to Franchisor, in perpetuity throughout the world, all rights, title and interest (including the entire copyright and all renewals, reversions and extensions of such copyright) in and to such System modifications. Except to the extent prohibited by Applicable Law, Franchisee waives, and will cause each of its employees or independent contractors who contributed to System modifications to waive, all "moral rights of authors" or any similar rights in such System modifications. For the purposes of this Section 11.2.B.5, "modifications" includes any derivatives and additions; and

6. Franchisee will execute, or cause to be executed, and deliver to Franchisor any documents, and take any actions required by Franchisor to protect the Proprietary Marks and the title in any System modifications.

**11.3 Franchisee's Use of Other Marks.** Franchisee will not use any Mark in connection with the Hotel or the System that is not a Proprietary Mark, including the names of restaurants or other outlets at the Hotel ("Other Marks") without Franchisor's prior approval. Franchisee will not use any Other Marks that may infringe or be confused with a third party's trade name, trademark or other rights in intellectual property. Franchisee consents to the use of the Other Marks by Franchisor and its Affiliates during the Term. Franchisee represents that there are no claims or proceedings that would materially affect Franchisor's use of the Other Marks.

**11.4 Websites and Domain Names.** Franchisee will not display any of the Proprietary Marks on, or associate the System with (through a link or otherwise), any website, electronic Marketing Materials, application or software for mobile devices or other technology or media, domain name, address, designation or listing on the internet or other communication system or medium without Franchisor's consent or as permitted in the Standards. Franchisee will not register or use any internet domain name, address, mobile application or other designation that contains any Proprietary Mark or any mark that is, in Franchisor's sole opinion, confusingly similar. At Franchisor's request, Franchisee will

promptly cancel or transfer to Franchisor any such domain name, address or other designation under Franchisee's control.

## **12. CONFIDENTIAL INFORMATION; DATA PROTECTION**

### **12.1 Confidential Information.**

A. *Confidentiality Obligations.* Franchisee will use Confidential Information only for the benefit of the Hotel and in conformity with this Agreement, the Standards and Applicable Law. Franchisee will protect Confidential Information and will immediately on becoming aware report to Franchisor any theft, loss or unauthorized disclosure of Confidential Information. Franchisee may disclose Confidential Information only to Franchisee's employees or agents who require it to operate the Hotel, and only after they are advised that such information is confidential and that they are bound by Franchisee's confidentiality obligations under this Agreement. Without Franchisor's prior consent, Franchisee will not copy, reproduce or make Confidential Information available to any Person not authorized to receive it. The Confidential Information is proprietary and a trade secret of Franchisor and its Affiliates. Franchisee agrees that the Confidential Information has commercial value and that Franchisor and its Affiliates have taken reasonable measures to maintain its confidentiality. Franchisee is liable for any breaches of such confidentiality obligations by its employees or agents.

B. *Confidentiality of Negotiated Terms.* Franchisee agrees it will not disclose to any Person the content of the negotiated terms of this Agreement or other Marriott Agreements without the prior consent of Franchisor except: (i) as required by Applicable Law; (ii) as may be necessary in any legal proceedings; and (iii) to those of Franchisee's managers, members, officers, directors, employees, attorneys, accountants, agents, lenders, prospective lenders, or any nationally-recognized debt ratings agency, in each case to the extent necessary for the operation or financing of the Hotel and only if Franchisee informs such Persons of the confidentiality of the negotiated terms. Franchisee will be in default under this Agreement for any disclosure of negotiated terms by any such Persons.

**12.2 Data Protection.** Franchisee and Franchisor are each independent controllers of Guest Personal Data and may share Guest Personal Data during the Term to the extent permitted by Applicable Law and the Standards. Franchisee will collect, use, handle, and share Guest Personal Data only for purposes of operating the Hotel and only in accordance with this Agreement, Applicable Law, and the Standards. Without limiting the foregoing, Franchisee will comply with all Standards relating to the use of Guest Personal Data for direct marketing to customers and will not sell any Guest Personal Data. Franchisee will ensure that (i) all Hotel personnel with access to Guest Personal Data complete any training required by the Standards, and (ii) Franchisee complies with the Standards relating to revoking or disabling any such Person's access to Guest Personal Data upon termination of employment or service. Franchisee will take such actions and sign such documents that are determined by Franchisor to be necessary to enable Franchisor and Franchisee to comply with Applicable Law and any Standards applicable to Guest Personal Data related to the Hotel. Franchisee will promptly provide notice to Franchisor in accordance with the Standards if Franchisee: (i) discovers or reasonably suspects a Security Incident; or (ii) has been contacted by a data protection authority about the processing of Guest Personal Data (in which case Franchisor and any of its Affiliates may control any proceedings with such data protection authority and Franchisee will reasonably cooperate with Franchisor and its Affiliates). If any Person contacts Franchisee seeking to exercise any right under Applicable Law pertaining to Guest Personal Data, Franchisee will respond to such request in accordance with the Standards. Franchisee will cooperate with Franchisor as is reasonably necessary (a) to respond to data access requests related to Guest Personal Data and (b) in the resolution of Security Incidents at the Hotel.

### **13. ACCOUNTING AND REPORTS; TAXES**

**13.1 Accounting.** Franchisee will account for Gross Room Sales and Gross Revenues on an accrual basis and in compliance with this Agreement.

**13.2 Books, Records and Accounts.** Franchisee will maintain and preserve complete and accurate books, records and accounts for the Hotel in accordance with the Uniform System and United States generally accepted accounting principles, consistently applied, Applicable Law and the Standards. Franchisee will preserve these books, records and accounts for at least 5 years from the dates of their preparation.

#### **13.3 Statements and Reports.**

A. *Monthly Statements.* At Franchisor's request, for each full or partial month after the Effective Date, Franchisee will prepare and deliver to Franchisor an operating statement containing the information required by Franchisor, including Gross Revenues and Gross Room Sales for such month.

B. *Quarterly Projections.* On or before the first day of each full calendar quarter after the Effective Date, Franchisee will provide to Franchisor a monthly estimate of Gross Revenues and Gross Room Sales for each of the next four calendar quarters in a format approved or required by Franchisor.

C. *Annual Statements.* For each full or partial calendar or fiscal year (whichever is used by Franchisee for income tax purposes), Franchisee will prepare and provide to Franchisor a complete statement of income and expense from the operation of the Hotel for the preceding year. This statement is due within 90 days after each year. This statement will be prepared in accordance with the Uniform System and the United States generally accepted accounting principles, consistently applied, Applicable Law, the Standards, and the Uniform System "Income Statement" with standard line items specified by Franchisor, and Franchisee will provide such supporting documentation and other information that Franchisor may require relating to this statement.

D. *Other Reports.* Franchisee will promptly deliver to Franchisor such other reports and financial information relating to Franchisee and the Hotel in accordance with the Standards or as Franchisor may otherwise request.

#### **13.4 Franchisor Examination and Audit of Hotel Records.**

A. *Examination and Audit.* Franchisor and its authorized representatives may, at any time, but on reasonable notice to Franchisee, examine and copy all books, records, accounts and tax returns of Franchisee related to the operation of the Hotel during the five years preceding such examination. Franchisor may have an independent audit made of any such books, records, accounts and tax returns. Franchisee will provide any assistance reasonably requested for the audit and will provide copies of any documentation requested by Franchisor without charge.

B. *Underreporting.* If an examination or audit reveals that Franchisee has made underpayments to Franchisor, Franchisee will promptly pay Franchisor on demand the amount underpaid plus interest under Section 3.6. If an examination or audit finds that Franchisee has understated payments due Franchisor by 5% or more for the relevant period, or if the examination or audit reveals that the accounting procedures are insufficient to determine the accuracy of the calculation of payments due, Franchisee will reimburse Franchisor for all costs relating to the examination or audit (including

reasonable accounting and legal fees). If the examination or audit establishes a pattern of underreporting, Franchisor may require that the annual financial reports due under Section 13.3.C. be audited by an independent accounting firm consented to by Franchisor. The rights of Franchisor in this Section 13.4 are in addition to any other remedies that Franchisor may have, including the right to terminate this Agreement.

C. *Overpayments.* If an examination or audit reveals that Franchisee has made overpayments to Franchisor, the amount of such overpayment, without interest, will be promptly credited against future payments due Franchisor.

### 13.5 Taxes.

A. *Payment of Taxes.* Franchisee will pay when due all Taxes relating to the Hotel, Franchisee, this Agreement, any other Marriott Agreement or in connection with operating the Hotel, except income or franchise taxes assessed against Franchisor.

B. *Withholding Taxes.*

1. The amounts payable to Franchisor will not be reduced by any deduction or withholding for any present or future Taxes.

2. If Applicable Law imposes an obligation on Franchisee to deduct or withhold Taxes directly from any amount paid to Franchisor, then Franchisee will deduct or withhold the required amount and will timely pay the full amount deducted or withheld to the relevant governmental authority in accordance with Applicable Law. The amount paid to Franchisor will be increased so that after the deduction or withholding has been made in accordance with Applicable Law, the net amount actually received by Franchisor will equal the full amount originally invoiced or otherwise payable. If required or permitted, Franchisee must promptly pay any such deduction or withholding directly to the relevant governmental authority and provide Franchisor proof of payment.

3. If Applicable Law does not impose an obligation on Franchisee to deduct or withhold Taxes directly from any amount paid to Franchisor, but requires Franchisor to pay such Taxes, then Franchisee will pay Franchisor, within 15 days after request, the full amount of the Taxes paid or payable by Franchisor with respect to such payment so that the net amount actually retained by Franchisor after payment of Taxes (other than taxes assessed on Franchisor's net income) will equal the full amount originally invoiced or otherwise payable.

C. *Sales Tax & Similar Taxes.* The amounts payable to Franchisor will not be reduced by any sales, goods and services, value added or similar taxes, all of which will be paid by Franchisee. Therefore, in addition to making any payment to Franchisor required under this Agreement, Franchisee will: (i) pay Franchisor the amount of these taxes due with respect to the payment; or (ii) if required or permitted by Applicable Law, pay these taxes directly to the relevant taxing authority.

D. *Tax Disputes.* If there is a Dispute by Franchisee as to any Tax liability, Franchisee may contest the Tax liability in accordance with Applicable Law, but Franchisee will not permit a sale, seizure or attachment to occur against the Hotel. If such Dispute involves payments of Taxes that will be withheld, deducted and paid by Franchisee related to payments to Franchisor as provided in this Section 13.5, Franchisee will notify Franchisor before taking action with regard to the Dispute with the tax authority and, if requested by Franchisor, cooperate with Franchisor in preparing its

response. Upon Franchisor's request, Franchisee will pay such Taxes and seek reimbursement from the governmental authority. Franchisee will be responsible for any interest or penalties assessed.

#### **14. INDEMNIFICATION**

Without Franchisee waiving its right, if any, to defend against its obligations under this Section 14 based on an assertion of sovereign immunity, and without Franchisor waiving its right to dispute the applicability of sovereign immunity to Franchisee's obligations under this Section 14, Franchisee will be responsible for, and will indemnify, defend and hold harmless Franchisor and its Affiliates (and each of their respective predecessors, successors, assigns, current and former directors, officers, shareholders, subsidiaries, employees and agents), against all Claims and Damages, including allegations of negligence by such Persons, to the fullest extent permitted by Applicable Law, arising from: (i) the unauthorized use of Intellectual Property; (ii) the violation of Applicable Law; (iii) the construction, conversion and renovation, repair, operation, ownership or use of the Hotel or the Approved Location (including Claims and Damages arising from a Security Incident or the use of the Other Marks) or of any other business related to the Hotel or the Approved Location; or (iv) Franchisee's use of the Electronic Systems or any failure by Franchisee to comply with Section 7 of this Agreement. Franchisor will have the right, at Franchisee's cost, to control the defense of any Claim (including the right to select its counsel or defend or settle any Claim) if Franchisor determines such Claim may affect the interests of Franchisor or its Affiliates. Such undertaking by Franchisor will not diminish Franchisee's indemnity obligations. Neither Franchisor nor any indemnified Person will be required to seek recovery from third parties or mitigate its losses to maintain its right to receive indemnification from Franchisee. The failure to pursue such recovery or mitigate its losses will not reduce the amounts recoverable from Franchisee by an indemnified Person. Franchisee's obligation to maintain insurance under Section 15 will not relieve Franchisee of its obligations under this Section 14. Franchisee's obligations under this Section 14 will survive the termination or expiration of this Agreement.

#### **15. INSURANCE**

**15.1 Insurance Required.** During the Term, Franchisee will procure and maintain insurance with the coverages, deductibles, limits, carrier ratings, and policy obligations required by the Standards. Such insurance requirements may include: property insurance including business interruption, earthquake, flood, terrorism and windstorm; workers' compensation; commercial general liability; liquor liability; business auto liability; umbrella or excess liability; fidelity coverage; employment practices liability; cyber liability; and such other insurance customarily carried on hotels similar to the Hotel. Franchisor may change such requirements in the Standards and may also require Franchisee to obtain additional types of insurance or increase the amount of coverages. All insurance will by endorsement specifically:

A. name as unrestricted additional insureds Franchisor, any Affiliate designated by Franchisor and their employees and agents (except for workers' compensation and fidelity insurance), except in the case of property/business interruption insurance maintained by Franchisee, for so long as Franchisee is required by Applicable Law to provide such insurance through the Alabama State Insurance Fund, the requirements of this Section 15.1.A will not apply;

B. provide that the coverages will be primary and that any insurance carried by any additional insured will be excess and non-contributory;

C. contain a waiver of subrogation in favor of Franchisor and any Affiliate of Franchisor, except in the case of property/business interruption insurance maintained by Franchisee, for

so long as Franchisee is required by Applicable Law to provide such insurance through the Alabama State Insurance Fund, the requirements of this Section 15.1.C will not apply; and

D. provide that the policies will not be canceled, non-renewed or reduced without at least 30 days' prior notice to Franchisor.

**15.2 Other Requirements.** Franchisee will deliver to Franchisor a certificate of insurance (and certified copy of such insurance policy if requested) evidencing the insurance required. Renewal certificates of insurance will be delivered to Franchisor not less than 10 days before their respective inception dates. If Franchisee fails to procure or maintain the required insurance, Franchisor will have the right and authority to procure (without any obligation to do so) such insurance at Franchisee's cost, including a reasonable fee for Franchisor's procurement and maintenance of such insurance. If Franchisee delegates its insurance obligations to any other Person, Franchisee will ensure that such Person satisfies such obligations. Such delegation will not relieve Franchisee of its obligations under this Section 15 and the Standards. Any failure to satisfy the insurance requirements is a default under this Agreement. Franchisee will cooperate with Franchisor in pursuing any claim under insurance required by this Agreement.

## 16. FINANCING OF THE HOTEL

Franchisee and each Interestholder in Franchisee may grant a lien or other security interest in the Hotel or the revenues of the Hotel, or pledge Ownership Interests in Franchisee or a Control Affiliate as collateral for the financing of the Hotel. Franchisor may provide information to and otherwise communicate with any Person holding such lien, security interest or pledge (or its designee) regarding the status of the Hotel, this Agreement or any breach or default under this Agreement. If any Person exercises its rights under such lien, security interest or pledge, Franchisor will have the rights under Section 19.1. Franchisee will not pledge this Agreement as collateral or grant a security interest in this Agreement, but Franchisor may provide a comfort letter to a lender on Franchisor's then-current form and, if it does so, Franchisee will pay the then-current lender comfort letter processing fee.

## 17. TRANSFERS

**17.1 Franchisee's Transfer Rights.** Franchisee agrees that its rights and duties in this Agreement are personal to Franchisee and that Franchisor entered into this Agreement in reliance on the business skill, financial capacity and character of Franchisee and its Affiliates and their principals. Accordingly, any Transfer of the Hotel, or of any Ownership Interest in Franchisee, a Control Affiliate, or the Hotel, may be made only in accordance with this Section 17 (including Section 17.5) and only if such Transfer does not violate Section 17.6. This Agreement may not be Transferred without Franchisor's prior consent.

**17.2 Transfers Not Requiring Notice or Consent.** As long as the following Transfers of Passive Investor Interests do not result in a change of Control of Franchisee, no notice to or consent by Franchisor is required:

A. *Publicly-traded Securities.* A Transfer of publicly-traded securities purchased on the open market, pursuant to a registration statement or through a registered broker/dealer or investment adviser;

B. *10% Threshold.* A Transfer of Passive Investor Interests (other than those held by a Guarantor) to a transferee that immediately before and after the Transfer owns less than 10% of the Ownership Interests in Franchisee; and

C. *Investment Fund.* A Transfer of limited partnership interests in an investment fund formed by a sponsoring company in the business of raising capital for investment purposes, as long as such fund has at least 20 limited partners, none of which owns (immediately before or after such Transfer) 10% or more of the Ownership Interests in Franchisee or directs the decisions of, or exercises any Control over, the fund or the companies in which the fund invests.

**17.3 Transfers Requiring Notice but Not Consent.** Franchisee must provide notice to Franchisor at least 20 days prior to any of the following Transfers that are not covered in Section 17.2, but no consent by Franchisor is required:

A. *Passive Investor Transfer.* A Transfer of Passive Investor Interests if the following requirements are met:

1. Franchisee provides Franchisor with the identity of the proposed transferees and their Interestholders, together with all other related information reasonably requested by Franchisor;
2. such Transfer, individually and in the aggregate, will not result in: (i) a change of Control of Franchisee; (ii) any Person and its Affiliates that did not own a majority of the Ownership Interests in Franchisee before such Transfers collectively owning a majority of the Ownership Interests in Franchisee after such Transfer; or (iii) a Transfer of all of Guarantor's Ownership Interest in Franchisee;
3. each new Interestholder is a Qualified Person, and Franchisee pays the fees for any required background checks; and
4. if Franchisor requests, Franchisee will execute an amendment to this Agreement that updates the ownership information in Exhibit A, and pay Franchisor's outside counsel costs related to such documentation, if any.

B. *Transfer to Affiliates; Transfer for Estate Planning Purposes.* A Transfer of the Hotel or an Ownership Interest in Franchisee to an Affiliate of Franchisee, or a Transfer of an Ownership Interest in Franchisee for estate planning purposes to an immediate family member or to an entity owned by, or a trust for the benefit of, an immediate family member, in the case of each such Transfer, if the following requirements are met:

1. Franchisee or its Control Affiliate owns, directly or indirectly, more than 50% of the economic interests of the proposed transferee (if the transferee is an entity), and such Transfer does not otherwise result in a change of Control of Franchisee or the Hotel;
2. Franchisee provides the identity of the proposed transferee and its Interestholders, documentation acceptable to Franchisor evidencing the Transfer, and all other related information reasonably requested by Franchisor;
3. each Guarantor acknowledges the Transfer and reaffirms its obligations under the Guaranty and, if required by Franchisor, another party acceptable to Franchisor executes a guaranty substantially identical to the form in the then-current Disclosure Document;

4. Franchisee is not in breach or default under any of the Marriott Agreements, or if there is a breach or default, there is an agreement to cure such breach or default;

5. each new Interestholder is a Qualified Person, and Franchisee pays the fees for any required background checks; and

6. if Franchisor requests, Franchisee and such transferee will execute any documents required by Franchisor to reflect the Transfer, and Franchisee will pay Franchisor's outside counsel costs related to such documentation, if any.

**17.4 Transfers Requiring Notice and Consent.** Transfers of the Hotel or a Controlling Ownership Interest in Franchisee, a Control Affiliate or the Hotel may be made only with at least 45 days' advance notice to Franchisor and Franchisor's prior consent.

A. *Conditions to Transfer.* Franchisor's consent to a Transfer under this Section 17.4 will be subject to satisfaction of the following conditions:

1. Franchisee provides Franchisor the identity of all parties and their Interestholders, a copy of the purchase agreement, the organizational documents of the transferee and its Interestholders, together with all other information reasonably requested by Franchisor;

2. payment by Franchisee of the then-current non-refundable property improvement plan fee (including any fees related to an extension thereof), and payment of the then-current application fee for System Hotels to Franchisor by the transferee with its submission of the application. If Franchisor does not consent to the Transfer, Franchisor will refund the application fee, less \$10,000;

3. transferee and any new Interestholder is a Qualified Person;

4. retention of a management company consented to by Franchisor under Section 8.1 if Franchisor determines in its sole discretion that the transferee is not qualified to operate the Hotel;

5. 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 franchise System Hotels as of the date of the Transfer, including the then-current fees and charges, except that Franchisor may require that the duration be shortened to the remaining Term. The new franchise agreement will also include a property improvement plan requiring the transferee to address any renovations necessary to comply with the Standards;

6. payment of all amounts due Franchisor and execution of a general release of all claims against Franchisor and its Affiliates; and

7. payment of Franchisor's outside counsel costs related to the Transfer.

Prior Transfers of Ownership Interests by or to a Person that already owns Ownership Interests or an Affiliate of such Person will be taken into account in determining whether a Transfer of a Controlling Ownership Interest has occurred. Within 30 days after Franchisor receives notice and all required information, Franchisor will notify Franchisee of its consent to such Transfer or the reason Franchisor is withholding its consent.

B. *Withholding of Consent.* Even if the conditions in Section 17.4.A. are satisfied, Franchisor may withhold its consent to a Transfer under this Section 17.4 if:

1. Franchisor determines that the proposed transferee's debt service or overall financial status will not permit the Hotel to be operated in compliance with the Standards; or
2. an uncured breach or default of a Marriott Agreement exists, and there is no agreement to cure such breach or default in connection with the Transfer; or
3. the Hotel is not in good standing under the Quality Assurance Program;  
or
4. Franchisor determines that entering into the new franchise agreement required by Section 17.4.A.5 would result in a default or breach of an existing agreement that is binding on Franchisor.

C. *Mental Incompetency or Death.* If any Person holding a Controlling Ownership Interest in Franchisee becomes mentally incompetent or dies, the interest of such Person may be Transferred subject to the terms of this Section 17.4 and only if: (i) any such Transfer will be made within 12 months after such Person is deemed mentally incompetent or dies; and (ii) the obligations of Franchisee will be satisfied pending the Transfer and the Hotel is operated in compliance with this Agreement. If such Person was a Guarantor, Franchisor may require another party acceptable to Franchisor to execute a Guaranty substantially identical to the form in the then-current Disclosure Document. If an executor, custodian, or other representative is appointed to oversee the management of Franchisee, Franchisee will give Franchisor notice of such appointment within 30 days and the appointee will cause the Hotel to be operated in compliance with this Agreement.

**17.5 Proposed Transfer to Competitor.** If there is a proposed Transfer of the Hotel or an Ownership Interest in Franchisee or a Control Affiliate to a Competitor, Franchisee will notify Franchisor stating the identity of the prospective transferee (including the Interestholders of such prospective transferee), the terms of the proposed transaction, and all other information reasonably requested by Franchisor. Within 30 days after receipt of such notice and information, Franchisor will notify Franchisee of its election of one of the following:

A. Franchisor may place Franchisee in default and give notice of its intent to terminate this Agreement under Section 19.1.B., in which case either: (i) Franchisee will cancel the Transfer; or (ii) this Agreement will terminate and Franchisee will pay damages pursuant to Section 19.4 and comply with its post-termination obligations; or

B. Franchisor may consent to such Transfer, which consent will be on such terms as Franchisor may require, in its sole discretion.

**17.6 Restricted Persons.** No Transfer of any Ownership Interest in Franchisee, the Hotel or any Marriott Agreement will be made to a Restricted Person or a Person that receives funding from a Restricted Person. Any such Transfer is a default under Section 19.1.B.

#### **17.7 Transfers by Franchisor.**

A. *Transfer to Affiliates.* Franchisor may Transfer this Agreement to any of its Affiliates that assumes Franchisor's obligations to Franchisee and is reasonably capable of performing Franchisor's obligations, without prior notice to, or consent of, Franchisee.

B. *Transfer to Other Persons.* Franchisor may Transfer this Agreement to any Person that assumes Franchisor's obligations to Franchisee, is reasonably capable of performing Franchisor's obligations and acquires substantially all of Franchisor's rights in System Hotels, without prior notice to, or consent of, Franchisee. Franchisee agrees that any such Transfer will constitute a release of Franchisor and a novation of this Agreement.

C. *Franchisor's Successors and Assigns.* This Agreement will be binding on and inure to the benefit of Franchisor and its permitted successors and assigns.

## **18. PROSPECTUS REVIEW**

**18.1 Franchisor's Review of Prospectus.** Except as stated in Section 18.2, if any Prospectus uses the Proprietary Marks, identifies the Hotel or Franchisor or its Affiliates or describes the relationship between Franchisor or Franchisee and their respective Affiliates, Franchisee will:

A. deliver to Franchisor for its review a copy of such Prospectus and all related materials at least 30 days before the earlier of the date such Prospectus is delivered to a potential purchaser or a potential investor or filed with the Securities and Exchange Commission or other governmental authority. Franchisor may require Franchisee to pay its outside counsel costs for the review of such Prospectus;

B. indemnify, defend and hold harmless Franchisor and its Affiliates in connection with such Prospectus and the offering; and

C. use any Proprietary Marks in such Prospectus and in any related materials only as consented to by Franchisor.

Franchisor's review of any Prospectus is conducted solely to determine the accuracy of any description of Franchisor's relationship with Franchisee and compliance with this Agreement, including the requirements of Section 12.1 and this Section 18, and not to benefit any other Person. Such consent will not constitute an endorsement or ratification of the proposed offering or Prospectus.

**18.2 Exemption from Review.** Franchisor will waive the requirement for its review of a Prospectus if such Prospectus: (i) only uses the Proprietary Marks in block letters to identify the Hotel, (ii) provides a clear statement that the Hotel is operated under a license from Franchisor, and (iii) provides that Franchisor has not reviewed, endorsed or ratified the proposed offering or Prospectus.

## **19. DEFAULT AND TERMINATION**

**19.1 Immediate Termination.** Franchisee will be in default and Franchisor may terminate this Agreement without providing Franchisee any opportunity to cure the default, effective on notice to Franchisee (or on the expiration of any notice or cure period given by Franchisor in its sole discretion or required by Applicable Law), if any of the following occurs:

A. *Financial Defaults.*

1. Franchisee or any Guarantor files a voluntary petition or a petition for reorganization under any bankruptcy, insolvency or similar law;

2. Franchisee or any Guarantor consents to an involuntary petition under any bankruptcy, insolvency or similar law or fails to vacate any order approving such an involuntary petition within 90 days from the date the order is entered;

3. Franchisee or any Guarantor is unable to pay its debts as they become due;

4. Franchisee or any Guarantor is adjudicated to be bankrupt, insolvent or of similar status by a court of competent jurisdiction;

5. A receiver, trustee, liquidator or similar authority is appointed over the Hotel;

6. Execution is levied against the Hotel, Franchisee or any material real or personal property in the Hotel in connection with a final judgment; or

7. A suit to foreclose any lien, mortgage or security interest in the Hotel or any material personal property at the Hotel, or any security interest in Franchisee is filed and is not vacated within 90 days.

**B. *Non-Financial Defaults.***

1. Franchisee or any Guarantor or any other Person that Controls or has an Ownership Interest in Franchisee is or becomes a Restricted Person;

2. Franchisee or any of its Affiliates or any Guarantor takes any action that constitutes a violation of Applicable Law that adversely affects the Hotel or the System;

3. Franchisee or any of its Affiliates or any Guarantor becomes a Competitor or a Transfer occurs that does not comply with the terms of Section 17;

4. Franchisee or any of its Control Affiliates or any Guarantor dissolves or liquidates;

5. Franchisee loses its right to operate or possess the Hotel, or loses ownership of the Hotel; or, if the Hotel is subject to a lease referenced in Item 17 of Exhibit A, Franchisee or the Owner referenced in Item 17 of Exhibit A is in default under such lease, or such lease is terminated for any reason;

6. the Hotel ceases to operate as a System Hotel;

7. Franchisee engages in a pattern of underreporting amounts payable to Franchisor under this Agreement involving three or more months within any 24-month period;

8. a threat to public health or safety occurs from the condition of the Hotel or its operation, that in the opinion of Franchisor, could result in: (i) substantial liability; or (ii) an adverse effect on the Hotel, other System Hotels, the System or the Proprietary Marks and Franchisee fails to close the Hotel and remedy the condition on notice from Franchisor;

9. the Hotel fails to achieve the thresholds of performance established by the Quality Assurance Program and such failure has not been cured within the applicable cure period;

10. any Confidential Information is disclosed in breach of Section 12; or

11. Franchisor sends Franchisee three or more written notices to cure the same or similar breach or default under this Agreement during any 24-month period, even if such breaches or defaults have been cured.

**19.2 Default with Opportunity to Cure.** Franchisee will be in default and Franchisor may terminate this Agreement for the events listed below, if after 30 days' notice of default (or such greater number of days given by Franchisor in its sole discretion or as required by Applicable Law), Franchisee fails to cure the default as specified in the notice:

A. Franchisee fails to timely start and complete construction or conversion of the Hotel or fails to timely open the Hotel in accordance with this Agreement and the Standards; or

B. Franchisee fails to timely complete any renovation or repair of the Hotel in accordance with this Agreement and the Standards; or

C. Franchisee and its Affiliates fail to pay any amounts due under the Marriott Agreements; or

D. any Marriott Agreement is in breach beyond any applicable cure period, is in default, or is terminated based on a breach by or default of Franchisee or its Affiliates (or any Owner referenced in Item 17 of Exhibit A); or

E. Franchisee or any Interestholder in Franchisee, or any officer, director or employee of Franchisee, is convicted of a Serious Crime or is engaged in conduct that may adversely affect the Hotel, the System, any Franchisor Product or Franchisor, and such Person is not terminated from its relationship with Franchisee; or

F. Franchisee fails to comply with the Standards or there occurs any other breach of the Marriott Agreements, including any representations and warranties by Franchisee.

**19.3 Suspension of Reservation System.** If Franchisee is in default under this Agreement and the default is not cured within the cure period (if any), Franchisor may, in addition to any other remedies, suspend the Hotel from the Reservation System while such default remains uncured. Once the default is cured, Franchisor will promptly reconnect the Hotel to the Reservation System. Franchisor's exercise of its remedies in this Section 19.3 will not (i) constitute actual or constructive termination or abandonment of this Agreement; (ii) be a waiver of the default or any breach of this Agreement; or (iii) preclude Franchisor from terminating this Agreement in accordance with Section 19.1 or 19.2, as applicable, or pursuing any equitable or other remedies. Franchisee waives all claims against Franchisor and its Affiliates arising from any suspension from the Reservation System arising as a result of Franchisee's default under this Agreement.

#### **19.4 Damages.**

A. *Harm to Franchisor.* Franchisee agrees that if it fails to operate the Hotel as a System Hotel for the entire Term, Franchisor will incur damages, including loss of future Franchise Fees and Program Services Contributions, and loss of opportunities for Development Activities, and that replacement of the Hotel with a comparable lodging product will take significant time and effort. Franchisee agrees that it is difficult to calculate such damages over the remainder of the Term and that the liquidated damages provided for in Section 19.4.B. of this Agreement are not a penalty and represent

a reasonable estimate of the minimum fair and just compensation for the damages that Franchisor will incur.

B. *Payment of Liquidated Damages.* If Franchisor terminates this Agreement due to Franchisee's default, Franchisee will promptly pay as liquidated damages to Franchisor an amount equal to (i) the Average Monthly Fees *multiplied by* (ii) the lesser of (x) 36 or (y) 1/2 the number of months remaining in the Term.

C. *Actual Damages Under Special Circumstances.* Franchisee acknowledges that because of the increased difficulty in re-entering the market or replacing multiple hotels and the loss of competitive advantage and customer confidence, Franchisor and the System will suffer additional harm and the liquidated damages described in Section 19.4.B. might be inadequate to compensate Franchisor if this Agreement is terminated under the following circumstances. Therefore, Franchisor reserves the right to seek actual damages in lieu of the liquidated damages described in Section 19.4.B. if:

1. in addition to the termination of this Agreement, at least one additional franchise, license or management agreement for Franchisor Products between Franchisor and Franchisee, or their respective Affiliates, is terminated due to Franchisee's or its Affiliate's default within 12 months of the termination of this Agreement; or

2. this Agreement is terminated (i) as a result of a Transfer to a Competitor, or (ii) in connection with the development or operation of any Other Lodging Product at the Approved Location (which will be deemed to have occurred if, within two years from the date this Agreement terminates, any Person operates, or enters into any agreement or commitment contemplating the operation of, any Other Lodging Product at the Approved Location).

D. *Other Remedies.* Franchisee acknowledges that it does not have the right to terminate this Agreement, and it is obligated to operate the Hotel as a System Hotel for the entire Term. Franchisor's ability to terminate this Agreement and pursue payment of damages under this Section 19.4 does not preclude Franchisor from electing to pursue additional remedies under Applicable Law (including equitable remedies pursuant to Section 24.2) and any such election of remedies will not affect the obligations of Franchisee to comply with Section 20. Franchisee will reimburse Franchisor for any outside counsel costs incurred by Franchisor in connection with any default by Franchisee under Section 19.1 or Section 19.2 of this Agreement.

## **20. POST-TERMINATION**

### **20.1 Franchisee Obligations.**

A. *De-Identification.* On the expiration or other termination of this Agreement, Franchisee will immediately:

1. cease to operate the Hotel as a System Hotel and not represent or create the impression that it is a present or former franchisee or licensee of Franchisor or that the Hotel is or was previously part of the System, unless required under Section 20.1.A.8. or 9. below;

2. permanently cease to use, and remove from the Hotel and any other place of business, any Intellectual Property and any other identifying characteristics of the System, including any Electronic Systems, advertising or any articles that display any of the Proprietary Marks or any trade dress or distinctive features or designs associated with the System or Franchisor Products;

3. remove any signs containing any Proprietary Marks (if Franchisee is unable to remove the signs immediately, Franchisee will cover the signs and remove them within 48 hours);

4. remove from any internet sites all content under its control related to the System or Franchisor and take all actions necessary to disassociate itself from Franchisor on the internet. Franchisee will, at Franchisor's option, cancel or assign to Franchisor or its designee, any domain name under the control of Franchisee or its Affiliates that contains any Proprietary Mark, or any mark that Franchisor determines is confusingly similar, including misspellings and acronyms;

5. cancel any fictitious, trade or assumed name or equivalent registration that contains any Proprietary Mark or any variations, and provide satisfactory evidence to Franchisor of its compliance within 30 days after expiration or termination of this Agreement;

6. deliver to Franchisor the originals and all copies of any Intellectual Property and all other materials relating to the operation of the Hotel under the System, including Guest Personal Data. Franchisee will not retain a copy of any Intellectual Property or such other System materials (including electronic copies), except for any documents that Franchisee reasonably needs for compliance with Applicable Law. If Franchisor explicitly permits Franchisee to use any Intellectual Property or such other System material after the termination or expiration date, such use by Franchisee will be in accordance with this Agreement and Applicable Law;

7. cease using any of the Confidential Information or the System and disclosing it to anyone not authorized by Franchisor to receive it;

8. make such necessary alterations to the Hotel so that the public will not confuse it with a System Hotel. Until such alterations are completed, Franchisee will place a conspicuous sign at the registration desk, stating that the Hotel is no longer a System Hotel; and

9. advise all customers in accordance with the Standards that the Hotel is no longer a System Hotel.

B. *Other Obligations and Termination Costs.* On expiration or termination of this Agreement, Franchisee will (a) comply with the obligations in the Sections referenced under Section 27.8; and (b) promptly pay: (i) all amounts owing to Franchisor; (ii) all of Franchisor's costs or fees charged for removing the Hotel from the System (including any costs resulting from cancellation of reservations or early departures by customers receiving the notice sent pursuant to Section 20.2); and (iii) a reasonable estimate of costs and fees that will be due but have not yet been invoiced (if the estimated payment exceeds actual amounts due, Franchisor will refund the difference to Franchisee). Franchisor will have the right to recover reasonable legal fees and court costs incurred in collecting such amounts, except to the extent prohibited by Applicable Law. If this Agreement is terminated under Section 21.2, Franchisee will cooperate with Franchisor in pursuing its claim under the business interruption insurance required under this Agreement.

**20.2 Franchisor's Rights on Expiration or Termination.** Before or on the expiration or termination of this Agreement, Franchisor may give notice that the Hotel is leaving the System and take any other action related to customers, Travel Management Companies, suppliers and other Persons affected by such expiration or termination, and Franchisor will not be liable for any Damages related to such notice or action.

## 21. CONDEMNATION AND CASUALTY

### 21.1 **Condemnation.**

A. *Condemnation Notification.* Franchisee will promptly notify Franchisor if it receives notice of any proposed taking of any portion of the Hotel by eminent domain, condemnation, compulsory acquisition or similar proceeding by any governmental authority.

B. *Condemnation Restoration.* If the condemnation award is sufficient to restore the Hotel to meet the Standards, Franchisee will cause the Hotel to be promptly restored and reopened within a reasonable time.

C. *Condemnation Termination.* If the taking in Section 21.1.A. would materially affect the continued operation of the Hotel as a System Hotel on a permanent basis, Franchisor or Franchisee may terminate this Agreement, in which case, Franchisor and Franchisee will execute a termination agreement and release on Franchisor's then-current form, and Franchisee will comply with the post-termination obligations in Section 20.

D. *No Liquidated Damages on Condemnation Termination.* A termination under this Section 21.1 will not be a default under this Agreement and Franchisee will not be required to pay liquidated damages. However, Franchisor will be entitled to receive a fair and reasonable portion of any condemnation award to compensate Franchisor for its lost revenue, but not more than the amount of liquidated damages that would have been due under Section 19.4.B.

### 21.2 **Casualty.**

A. *Casualty Notification.* Franchisee will promptly notify Franchisor if the Hotel is damaged by any casualty.

B. *Casualty Restoration.* If the Hotel is damaged by any casualty and the cost to restore the Hotel to the same condition as existed previously is less than 60% of the Hotel's replacement cost at the time of the casualty, Franchisee will cause the Hotel to be promptly renovated and reopened within a reasonable time under Section 4.

C. *Casualty Termination.* If the Hotel is damaged by any casualty and the cost to restore the Hotel to the same condition as existed previously is 60% or more of the Hotel's replacement cost at the time of the casualty, Franchisee will have 180 days after the date of the casualty to elect whether it will restore the Hotel to its previous condition or terminate this Agreement. If Franchisee elects to restore the Hotel, the Hotel will be promptly renovated and reopened within a reasonable time under Section 4. If Franchisee elects to terminate this Agreement, Franchisor and Franchisee will execute a termination agreement and release on Franchisor's then-current form and Franchisee will comply with the post-termination obligations in Section 20. Such termination will not affect Franchisor's right to business interruption insurance proceeds.

D. *No Liquidated Damages on Casualty Termination.* A termination under this Section 21.2 will not be a default under this Agreement and Franchisee will not be required to pay liquidated damages unless, before the date on which the Term otherwise would have ended, Franchisee or any of its Affiliates operates an Other Lodging Product at the Approved Location.

## **22. COMPLIANCE WITH APPLICABLE LAW; LEGAL ACTIONS**

**22.1 Compliance with Applicable Law.** Franchisee will comply with all Applicable Law, and will obtain all permits, certificates and licenses necessary to operate the Hotel and comply with the Marriott Agreements.

**22.2 Notice of Legal Actions.** Within seven days of receipt, Franchisee will notify Franchisor and provide copies of: (i) any Claim involving the Hotel, Franchisee or Franchisor; (ii) any judgment, order, or other decree related to the Hotel or Franchisee; or (iii) any inspection reports and warnings about a material failure to meet health or life safety requirements or any other material violation of Applicable Law related to the Hotel or Franchisee. This Section 22.2 will not change any notice requirement that Franchisee may have under any insurance policies.

## **23. RELATIONSHIP OF PARTIES**

This Agreement does not create a fiduciary relationship between Franchisor and Franchisee. Franchisee is an independent contractor, and neither party is an agent, legal representative, joint venturer, partner, joint employer, or employee of the other for any purpose and Franchisee will make no representation to the contrary. Nothing in this Agreement authorizes Franchisee to make any agreement or representation on Franchisor's behalf or to incur any obligation in Franchisor's name.

## **24. GOVERNING LAW; ARBITRATION; INTERIM RELIEF; COSTS OF ENFORCEMENT; WAIVERS**

### **24.1 Governing Law, Arbitration, and Jurisdiction.**

A. *Governing Law.* This Agreement takes effect on its acceptance and execution by Franchisor in Maryland and will be construed under and governed by Maryland law, which law will prevail if there is any conflict of law, except with respect to any sovereign immunity of Franchisee to the extent conferred and recognized by Alabama law. Nothing in this Section 24.1 will make the Maryland Franchise Registration and Disclosure Law apply to this Agreement or the relationship between Franchisor and Franchisee, if such law would not otherwise apply.

### **B. *Arbitration.***

1. Except to the extent ~~prohibited~~prohibited by any sovereign immunity of Franchisee, to the extent such sovereign immunity is conferred and recognized by Alabama law, and except as otherwise specified in this Agreement and for Claims for indemnification under Section 14 or actions for injunctive or other equitable relief under Section 24.2, any Dispute related to the Hotel, the Marriott Agreements, the relationship of the parties, or any actions or omissions in connection with any of the above, will be resolved, referred to, and finally settled by, arbitration under and in accordance with the Commercial Arbitration Rules of the American Arbitration Association (or any similar successor rules). The arbitrator(s) will be appointed in accordance with such rules. The number of arbitrators will be one unless the parties agree otherwise in accordance with such rules. The place where arbitration proceedings will be conducted is Baltimore, Maryland. The party bringing the arbitration will submit the following together with any demand or filing required by the American Arbitration Association: (i) a full and specific description of the claim under this Agreement, including identifying the specific provisions that the other party has breached, (ii) documentary evidence of the facts alleged by the complaining party, and (iii) a declaration under penalty of perjury that all facts stated in the claim and documentation are true and correct and do not fail to state facts known to the complaining party that are material to the determination of the dispute.

2. Except to the extent ~~prohibited~~prohibited by any sovereign immunity of Franchisee, to the extent such sovereign immunity is conferred and recognized by Alabama law, the decision of the arbitral tribunal will be final and binding on the parties and will be enforceable in any courts having jurisdiction. The arbitral tribunal will have no authority to amend or modify the terms of this Agreement. The arbitral tribunal will have the right to award or include in its award any relief it deems proper, including money damages and interest on unpaid amounts, specific performance and legal fees and costs in accordance with this Agreement; however, the arbitral tribunal may not award punitive, consequential or exemplary damages (except for those related to misuse of Franchisor's Intellectual Property). The costs and expenses of arbitration will be allocated and paid by the parties as determined by the arbitral tribunal.

3. Any arbitration proceeding under this Agreement will be conducted on an individual (not a class-wide) basis and will not be consolidated with any other arbitration proceedings to which Franchisor is a party, except that Franchisor may join any management company operating the Hotel, any owner under an owner agreement related to the Hotel, and any guarantor of any obligations with respect to the Hotel in any such proceeding. Any Dispute to be settled by arbitration under this Section will at the request of Franchisee or Franchisor be resolved in a single arbitration before a single tribunal together with any Dispute arising out of or relating to any other agreement between Franchisee and Franchisor and its Affiliates. A decision on a matter in another arbitration proceeding will not prevent a party from submitting evidence with respect to a similar matter or prevent the arbitral tribunal from rendering an independent decision without regard to such decision in such other arbitration proceeding.

4. Except to the extent ~~prohibited~~prohibited by any sovereign immunity of Franchisee, to the extent such sovereign immunity is conferred and recognized by Alabama law, Franchisor or Franchisee may, without waiving any rights, seek from a court having jurisdiction any interim or provisional relief that may be necessary to protect its rights or property (including any aspect of the System, or any reason concerning the safety of the Hotel or the health and welfare of any of the Hotel's guests, invitees or employees).

C. *Jurisdiction.* Except to the extent ~~prohibited~~prohibited by any sovereign immunity of Franchisee, to the extent such sovereign immunity is conferred and recognized by Alabama law, Franchisee expressly and irrevocably submits to the non-exclusive jurisdiction of the courts of the State of Maryland for the purpose of any Disputes that are not required to be subject to arbitration under Section 24.1.B. So far as permitted under Maryland law, this consent to personal jurisdiction will be self-operative.

**24.2 Equitable Relief.** Except to the extent ~~prohibited~~prohibited by any sovereign immunity of Franchisee, to the extent such sovereign immunity is conferred and recognized by Alabama law, Franchisor is entitled to injunctive or other equitable relief, including restraining orders and preliminary injunctions, in any court of competent jurisdiction for any threatened or actual material breach of the Marriott Agreements or non-compliance with the Standards. Franchisor is entitled to such relief without the necessity of proving the inadequacy of money damages as a remedy, without the necessity of posting a bond and without waiving any other rights or remedies.

**24.3 Costs of Enforcement.** If Applicable Law permits the collection of attorneys' fees by a prevailing party, the prevailing party in any legal or equitable action related to the Hotel, this Agreement or the other Marriott Agreements will recover its reasonable legal fees and costs, including fees and costs incurred in confirming and enforcing an award under Section 24.1.B. The prevailing party will be determined based upon an assessment of which party's arguments or positions could fairly be said to have prevailed over the other party's arguments or positions on major disputed issues in the arbitration or

at trial, and should include an evaluation of the following: the amount of the net recovery; the primary issues disputed by the parties; whether the amount of the award comprises a significant percentage of the amount sought by the claimant; and the most recent settlement positions of the parties. For clarity, if either party is immune from payment of such costs under Applicable Law, then neither party will be entitled to recover its costs under this Section 24.3.

**24.4 WAIVER OF PUNITIVE DAMAGES.** EACH OF FRANCHISEE AND FRANCHISOR ABSOLUTELY, IRREVOCABLY AND UNCONDITIONALLY WAIVES THE RIGHT TO CLAIM OR RECEIVE PUNITIVE DAMAGES IN ANY DISPUTE RELATED TO THE HOTEL, THE MARRIOTT AGREEMENTS, 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. NOTHING IN THIS SECTION 24.4 LIMITS FRANCHISEE'S OBLIGATIONS UNDER SECTION 14.

**24.5 WAIVER OF JURY TRIAL.** EACH OF FRANCHISEE AND FRANCHISOR ABSOLUTELY, IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY DISPUTE RELATED TO THE HOTEL, THE MARRIOTT AGREEMENTS, THE RELATIONSHIP OF THE PARTIES OR ANY ACTIONS OR OMISSIONS IN CONNECTION WITH ANY OF THE ABOVE.

## **25. NOTICES**

A. *Written Notices.* Subject to Section 25.B., all notices, requests, statements and other communications under this Agreement will be: (i) in writing; (ii) delivered by hand with receipt, or by courier service with tracking capability; and (iii) addressed, (a) in the case of Franchisor, to the address stated in Item 15 of Exhibit A; and (b) in the case of Franchisee, to the address stated in Item 16 of Exhibit A, or in either case at any other address designated in writing by the party entitled to receive the notice. Any notice will be deemed received (x) when delivery is received or first refused, if delivered by hand or (y) one day after posting of such notice, if sent via overnight courier.

B. *Electronic Delivery.* Franchisor may provide Franchisee with electronic delivery of routine information, invoices, the Standards and other System requirements and programs. Franchisor and Franchisee will cooperate with each other to adapt to new technologies that may be available for the transmission of such information.

## **26. REPRESENTATIONS AND WARRANTIES**

### **26.1 Existence; Authorization; Ownership; Other Representations.**

A. *Existence.* Each of Franchisor and Franchisee 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 Agreement.

B. *Authorization.* Each of Franchisor and Franchisee represents and warrants that the execution and delivery of this Agreement and the performance of its obligations under this Agreement: (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 obtained by the relevant party. Without limiting the generality of the foregoing, Franchisee

represents and warrants to Franchisor that no agreement or other arrangement of any type (including any management agreement, franchise agreement, letter of intent, option to purchase, technical services agreement, reservation agreement, or any oral agreement or course of conduct which could be construed to be a contract) exists, as of the Effective Date, which would prohibit or conflict with Franchisee's ability to enter into this Agreement or perform its obligations under this Agreement.

C. *Prior Representations.* Franchisee represents and warrants that all of the representations, warranties and information in the application and provided for this Agreement were true as of the time made and are true as of the Effective Date, regardless of whether such representations, warranties and information were provided by Franchisee or another Person.

D. *Restricted Person; Competitor.* Franchisee represents and warrants, and will ensure throughout the Term, that (i) neither Franchisee, nor the Person(s) that Control Franchisee, nor any of its or the Hotel's funding sources is a Restricted Person and (ii) neither Franchisee nor any of its Affiliates is a Competitor.

E. *Ownership of Franchisee.* Franchisee represents and warrants that the information in Attachment Two to Exhibit A regarding its Interestholders is complete and accurate. Upon any Transfer that requires notice to, or the consent of, Franchisor under Section 17, or on request of Franchisor, Franchisee will provide a list of the names and addresses of the Interestholders and documents necessary to confirm such information and update Attachment Two to Exhibit A.

F. *Ownership of the Hotel.* Unless otherwise stated in Item 17 of Exhibit A, Franchisee represents and warrants that either: (i) it is the sole owner of the Hotel and holds good and marketable fee title to the Approved Location; or (ii) the Approved Location is subject to a valid purchase, contribution, or similar agreement, and on closing of such agreement, Franchisee will be the sole owner of the Hotel and will hold good and marketable fee title to the Approved Location. Unless the Hotel is subject to a lease as indicated in Item 17 of Exhibit A, Franchisee will deliver a copy of the recorded deed in Franchisee's name to Franchisor no later than the Effective Date. Franchisee acknowledges and agrees that Franchisor has waived the requirement of delivery of a full Guaranty of Franchisee's obligations under this Agreement as of the Effective Date based on these representations and covenants, and that if Franchisee fails to deliver a copy of the recorded deed in Franchisee's name by the Effective Date or these representations are no longer true and correct at any time, among other rights Franchisor may have for such breach, Franchisor may in its sole discretion require that Franchisee provide a guaranty substantially identical to the form in the then-current Disclosure Document by a party acceptable to Franchisor.

## **26.2 Additional Franchisee Acknowledgments and Representations.**

A. *NO RELIANCE.* IN ENTERING THIS AGREEMENT, FRANCHISEE REPRESENTS AND WARRANTS THAT IT DID NOT RELY ON, AND NEITHER FRANCHISOR NOR ANY OF ITS AFFILIATES HAS MADE, ANY PROMISES, REPRESENTATIONS, WARRANTIES OR AGREEMENTS RELATING TO THE FRANCHISE, THE HOTEL, OR THE APPROVED LOCATION OR THE SYSTEM, UNLESS CONTAINED IN THIS AGREEMENT.

B. *BUSINESS RISK.* FRANCHISEE AGREES THAT THE BUSINESS VENTURE CONTEMPLATED BY THIS AGREEMENT INVOLVES SUBSTANTIAL BUSINESS RISK, IS A VENTURE WITH WHICH FRANCHISEE HAS RELEVANT EXPERIENCE AND ITS SUCCESS IS LARGELY DEPENDENT ON FRANCHISEE'S ABILITY AS AN INDEPENDENT BUSINESS. FRANCHISOR DISCLAIMS THE MAKING OF, AND FRANCHISEE AGREES IT HAS NOT RECEIVED, ANY INFORMATION, WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, AS

TO THE POTENTIAL REVENUES, PROFITS OR SUCCESS OF SUCH BUSINESS VENTURE. IF, PRIOR TO THE EFFECTIVE DATE, FRANCHISOR HAS FURNISHED ANY HISTORICAL PERFORMANCE DATA OR PROJECTIONS WITH RESPECT TO THE HOTEL IN CONNECTION WITH THE POSSIBILITY OF FRANCHISOR OR ITS AFFILIATES MANAGING THE HOTEL (AS OPPOSED TO GRANTING A FRANCHISE TO FRANCHISEE), FRANCHISEE ACKNOWLEDGES AND AGREES THAT SUCH DATA AND PROJECTIONS ARE NOT APPLICABLE TO A FRANCHISED SYSTEM HOTEL AND THAT IT HAS NOT RELIED THEREON IN ENTERING INTO THIS AGREEMENT. FRANCHISOR WILL NOT INCUR ANY LIABILITY FOR ANY ERROR, OMISSION OR FAILURE CONCERNING ANY ADVICE, TRAINING OR OTHER ASSISTANCE FOR THE HOTEL PROVIDED TO FRANCHISEE, INCLUDING FINANCING, DESIGN, CONSTRUCTION, RENOVATION OR OPERATIONAL ADVICE.

C. *DISCLOSURE AND NEGOTIATION.* FRANCHISEE ACKNOWLEDGES THAT IT HAS READ AND UNDERSTOOD THE DISCLOSURE DOCUMENT AND THE MARRIOTT AGREEMENTS. FRANCHISEE HAS HAD SUFFICIENT TIME AND OPPORTUNITY TO CONSULT WITH ITS ADVISORS ABOUT THE POTENTIAL BENEFITS AND RISKS OF ENTERING INTO THIS AGREEMENT. FRANCHISEE HAS HAD AN OPPORTUNITY TO NEGOTIATE THIS AGREEMENT.

D. *HOLDING PERIODS.* FRANCHISEE ACKNOWLEDGES THAT IT RECEIVED A COPY OF THIS AGREEMENT, ITS EXHIBITS AND ATTACHMENTS, IF ANY, AND RELATED AGREEMENTS, IF ANY, AT LEAST SEVEN DAYS BEFORE THE DATE ON WHICH THIS AGREEMENT WAS EXECUTED. FRANCHISEE FURTHER ACKNOWLEDGES THAT IT HAS RECEIVED THE DISCLOSURE DOCUMENT AT LEAST 14 DAYS BEFORE THE DATE ON WHICH IT EXECUTED THIS AGREEMENT OR MADE ANY PAYMENT TO FRANCHISOR IN CONNECTION WITH THIS AGREEMENT.

E. *DISCLOSURE EXEMPTION.* NOTWITHSTANDING FRANCHISEE'S ACKNOWLEDGMENT IN SECTION 26.2.D, FRANCHISEE REPRESENTS AND ACKNOWLEDGES THAT THIS FRANCHISE SALE IS FOR MORE THAN \$1,469,600, EXCLUDING THE COST OF UNIMPROVED LAND AND ANY FINANCING RECEIVED FROM FRANCHISOR OR ITS AFFILIATES, AND THUS IS EXEMPTED FROM THE FEDERAL TRADE COMMISSION'S FRANCHISE RULE DISCLOSURE REQUIREMENTS PURSUANT TO 16 CFR 436.8(a)(5)(i).

F. *NO ENDORSEMENT.* FRANCHISEE ACKNOWLEDGES THAT FRANCHISOR DID NOT APPROVE, RECOMMEND, ENDORSE OR PARTICIPATE IN ANY DECISIONS ABOUT THE TERMS OF ANY TRANSACTION UNDER WHICH FRANCHISEE ACQUIRED CONTROL OF THE HOTEL, INCLUDING THE PURCHASE PRICE, AND DID NOT COMMENT ON ANY FINANCIAL PROJECTIONS SUBMITTED TO FRANCHISEE.

G. *EXISTING AGREEMENTS; STATUS OF HOTEL.* FRANCHISEE AGREES TO BE BOUND BY ALL AGREEMENTS BETWEEN FRANCHISEE AND FRANCHISOR OR ITS AFFILIATES, SUCH AS LICENSE, SERVICE OR REVENUE MANAGEMENT AGREEMENTS AND ANY OTHER AGREEMENTS RELATING TO THE HOTEL. FRANCHISEE ACKNOWLEDGES AND AGREES THAT THE TERMINATION OF THE PREVIOUS FRANCHISE AGREEMENT AND EXECUTION OF THIS AGREEMENT DO NOT CHANGE OR AFFECT THE STATUS OR PERFORMANCE OF THE HOTEL UNDER THE QUALITY ASSURANCE PROGRAM PRIOR TO THE EFFECTIVE DATE, INCLUDING ITS PERFORMANCE FOR THE CURRENT TRACKING PERIOD, OR FRANCHISOR'S RIGHTS WITH RESPECT TO THAT PERFORMANCE. IF THE HOTEL'S PERFORMANCE IN THE CURRENT TRACKING PERIOD FAILS TO MEET

THE QUALITY ASSURANCE PROGRAM REQUIREMENTS, THE HOTEL WILL BE SUBJECT TO THE APPLICABLE TERMS FOR SUCH FAILURE AS STATED IN THE STANDARDS. IF THE HOTEL IS IN THE "RED ZONE" (AS SUCH TERM IS USED IN THE QUALITY ASSURANCE PROGRAM) AS OF THE EFFECTIVE DATE, SUCH STATUS WILL BE TAKEN INTO ACCOUNT FOR PURPOSES OF FRANCHISOR'S REMEDIES UNDER THE QUALITY ASSURANCE PROGRAM, INCLUDING FOR DETERMINING WHETHER FRANCHISEE IS IN DEFAULT OF THE QUALITY ASSURANCE PROGRAM.

## 27. MISCELLANEOUS

**27.1 Counterparts.** This Agreement 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. Each party hereto waives any defenses to the enforceability of the terms of this Agreement based on the foregoing forms of signature.

### 27.2 Construction and Interpretation.

A. *Partial Invalidity.* If any term of this Agreement, or its application to any Person or circumstance, is invalid or unenforceable at any time or to any extent, then: (i) the remainder of this Agreement, or the application of such term to Persons or circumstances except those as to which it is held invalid or unenforceable, will not be affected and each term of this Agreement will be valid and enforced to the fullest extent permitted by Applicable Law; and (ii) Franchisor and Franchisee will negotiate in good faith to modify this Agreement to implement their original intent as closely as possible in a mutually acceptable manner.

B. *Non-Exclusive Rights and Remedies.* No right or remedy of Franchisor or Franchisee under this Agreement or the Standards is intended to be exclusive of any other right or remedy under this Agreement at law or in equity.

C. *No Third-Party Beneficiary.* Nothing in this Agreement is intended to create any third-party beneficiary or give any rights or remedies to any Person except Franchisor or Franchisee and their respective permitted successors and assigns.

D. *Actions from Time to Time.* When this Agreement permits Franchisor to take any action, exercise discretion or modify the System, Franchisor may do so from time to time.

E. *Interpretation of Agreement.* Franchisor and Franchisee intend that this Agreement excludes all implied terms to the maximum extent permitted by Applicable Law. Headings of Sections and geographic designations in the footer are for convenience and do not affect interpretation of this Agreement. All Exhibits to this Agreement form an integral part of this Agreement and are incorporated by reference, including all Items of Exhibit A even if such Items are not specifically referred to in this Agreement. Words indicating the singular include the plural and vice versa as the context may require. References to days, months and years are all calendar references. References that a Person "will" do something mean the Person has an obligation to do such thing. References that a Person "may" do something mean a Person has the right, but not the obligation, to do so. References that a Person "may not" or "will not" do something mean the Person is prohibited from doing so. Examples used in this Agreement and references to "includes" and "including" are illustrative and not exhaustive.

F. *Definitions.* All capitalized terms in this Agreement have the meaning stated in Exhibit B.

**27.3 Reasonable Business Judgment.**

A. *Definition.* Reasonable Business Judgment means:

1. For decisions affecting the System, that the rationale for Franchisor's decision has a business basis that is intended to: (i) benefit the System or the profitability of the System, including Franchisor, regardless of whether some hotels may be unfavorably affected; (ii) increase the value of the Proprietary Marks; (iii) enhance guest, franchisee or owner satisfaction; or (iv) minimize potential brand inconsistencies or customer confusion; and

2. For decisions unrelated to the System (for example, a requested approval for the Hotel), that the rationale for Franchisor's decision has a business basis and Franchisor has not acted in bad faith.

B. *Use of Reasonable Business Judgment.* Franchisor will use Reasonable Business Judgment when discharging its obligations or exercising its rights under this Agreement, including for any consents and approvals and the administration of Franchisor's relationship with Franchisee, except when Franchisor has reserved sole discretion.

C. *Burden of Proof.* Franchisee will have the burden of establishing that Franchisor failed to exercise Reasonable Business Judgment. The fact that Franchisor or any of its Affiliates benefited from any action or decision, or that another reasonable alternative was available, does not mean that Franchisor failed to exercise Reasonable Business Judgment. If this Agreement is subject to any implied covenant or duty of good faith and Franchisor exercises Reasonable Business Judgment, Franchisee agrees that Franchisor will not have violated such covenant or duty.

**27.4 Consents and Approvals.** Except as otherwise provided in this Agreement, any approval or consent required under this Agreement will not be effective unless it is in writing and signed by the duly authorized officer or agent of the party giving such approval or consent. Franchisor will not be liable for: (i) providing or withholding any approval or consent; (ii) providing any suggestion to Franchisee; (iii) any delay; or (iv) denial of any request.

**27.5 Waiver.** The failure or delay of either party to insist on strict performance of any of the terms of this Agreement, or to exercise any right or remedy, will not be a waiver for the future.

**27.6 Entire Agreement.** This Agreement and the Marriott Agreements are fully integrated and contain the entire agreement between the parties as it relates to this franchise, the Hotel and the Approved Location and, subject to Section 26.1.C., supersede and extinguish all prior statements, agreements, promises, assurances, warranties, representations and understandings, whether written or oral, by any Person. Nothing in this Agreement is intended to require Franchisee to waive reliance on any representations made in the Disclosure Document.

**27.7 Amendments.** This Agreement may only be amended in a written document that has been duly executed by the parties and may not be amended by conduct manifesting assent, and each party is put on notice that any individual purporting to amend this Agreement by conduct manifesting assent is not authorized to do so.

**27.8 Survival.** The duties and obligations of the parties that by their nature or express language survive expiration or termination of this Agreement will survive expiration or termination of

this Agreement, including the terms of this Section 27 as well as the terms of Sections 11, 12, 13.2, 13.4, 13.5, 14, 17.5, 18, 19.4, 20, 21.1.D., 21.2.D., 22.2 (but only with respect to a Claim, judgment, report or warning related to Franchisor or its Affiliates or with respect to the period before such expiration or termination) and 24.

*{Signatures appear on the following page}*

IN WITNESS WHEREOF, Franchisor and Franchisee have caused this Renewal Franchise Agreement to be executed, under seal, as of the Effective Date.

FRANCHISOR:

MIF, L.L.C.

By: Marriott International, Inc.  
Its: Sole Member

By: \_\_\_\_\_ (SEAL)  
Name: Katherine Hammes  
Title: Vice President, MSB Franchising

FRANCHISEE:

THE BOARD OF TRUSTEES OF THE UNIVERSITY  
OF ALABAMA, A PUBLIC CONSTITUTIONAL  
CORPORATION OF THE STATE OF ALABAMA,  
ACTING THROUGH ITS UAB OPERATING  
DIVISION FOR THE BENEFIT OF UNIVERSITY  
HOSPITAL

By: \_\_\_\_\_ (SEAL)  
Name:  
Title:

**EXHIBIT A**  
**KEY TERMS**

1. **Trade Name(s):** Courtyard by Marriott
2. **Approved Location:** 1820 5th Avenue South, Birmingham, Alabama 35233
3. **Effective Date:**
4. **Term:** Begins on the Effective Date and ends on April 26, 2037
5. **Franchisor:** MIF, L.L.C., a Delaware limited liability company
6. **Franchisee:** The Board of Trustees of the University of Alabama, a public constitutional corporation of the State of Alabama, acting through its UAB operating division for the benefit of University Hospital
7. **Number of Guestrooms:** 122
8. **Additional Businesses:** Not Applicable
9. **Restricted Territory (Courtyard only):** Not Applicable
10. **Application Fee:** \$45,000
11. **Franchise Fees:** 6% of Gross Room Sales
- 12.A **Marketing Fund Contribution:** 2% of Gross Room Sales
- 12.B **Marketing Fund Contribution Cap:** The total Marketing Fund Contribution will not exceed 3% of Gross Room Sales for each month.
13. **Construction Start Deadline:** Not Applicable
14. **Opening Deadline:** Not Applicable
15. **Franchisor Notice Address:** MIF, L.L.C.  
7750 Wisconsin Avenue  
Bethesda, MD 20814

Attn: Law Department 52/923.28

16. **Franchisee Notice Address:** The Board of Trustees of the University of Alabama, a public constitutional corporation of the State of Alabama, acting through its UAB operating division for the benefit of University Hospital  
701 20th Street South  
Birmingham, AL 35233  
Attn: Kevin Jaquess  
Email: kjaquess@uab.edu

With a copy to:

Chief University Counsel  
UAB Office of Counsel  
1720 2nd Avenue South, AB 820  
Birmingham, AL 35294

17. **Lease Provisions:** Not Applicable
18. **System Hotel-specific terms:** Not Applicable
19. **PIP Review Date:** December 13, 2024
20. **Additional Terms:** Not Applicable

**ATTACHMENT ONE  
TO EXHIBIT A**

**RESTRICTED TERRITORY**

*Not Applicable*

**ATTACHMENT TWO  
TO EXHIBIT A**

**OWNERSHIP INTEREST IN FRANCHISEE**

<b>Name of Owner</b>	<b>Address (Include Country of Residence, if not U.S.)</b>	<b>Country of Formation or Nationality (Include if not U.S.)</b>	<b>% Interest</b>
<b>NAME AND ADDRESS OF THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ALABAMA, A PUBLIC CONSTITUTIONAL CORPORATION OF THE STATE OF ALABAMA, ACTING THROUGH ITS UAB OPERATING DIVISION FOR THE BENEFIT OF UNIVERSITY HOSPITAL</b>			
The Board of Trustees of the University of Alabama, a public constitutional corporation of the State of Alabama, acting through its UAB operating division for the benefit of University Hospital	701 20th Street South Birmingham, AL 35233		N/A
<b>OWNERSHIP OF THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ALABAMA, A PUBLIC CONSTITUTIONAL CORPORATION OF THE STATE OF ALABAMA, ACTING THROUGH ITS UAB OPERATING DIVISION FOR THE BENEFIT OF UNIVERSITY HOSPITAL</b>			
Franchisee is an agency of the State of Alabama, Controlled by its Board of Trustees			N/A

## **EXHIBIT B** **DEFINITIONS**

The following terms used in this Agreement have the meanings given below:

“Accessibility Requirements” means the Americans with Disabilities Act and other applicable state laws, codes, and regulations governing public accommodations for persons with disabilities.

“Additional Marketing Programs” means advertising, marketing, promotional, public relations, and sales programs and activities that are not funded by the Marketing Fund, each of which may vary in duration, apply on a local, regional, national, or Category basis, or include other Franchisor Products. Examples include email marketing, internet search engine marketing, transaction-based paid internet searches, sales lead referrals and bookings, cooperative advertising programs, Travel Management Companies programs, incentive awards, gift cards, guest satisfaction programs, complaint resolution programs and Loyalty Programs.

“Affiliate” means, for any Person, a Person that is directly or indirectly Controlling, Controlled by, or under common Control with such Person.

“Agreement” means this Renewal Franchise Agreement, including any exhibits and attachments, as may be amended.

“Applicable Law” means applicable national, federal, regional, state or local laws, codes, rules, ordinances, regulations, or other enactments, orders or judgments of any governmental, quasi-governmental or judicial authority, or administrative agency having jurisdiction over the Hotel, Franchisee, any Guarantor, Franchisor in its capacity as licensor under this Agreement or any of the Marriott Agreements, or the matters that are the subject of this Agreement, including any applicable data protection or privacy laws or any of the above that prohibit unfair, fraudulent or corrupt business practices and related activities, including any such actions or inactions that would constitute a violation of money laundering or terrorist financing laws and regulations.

“Application Fee” is defined in Section 3.1.

“Approved Location” means the site, including all land and easements used for the Hotel, described in Item 2 of Exhibit A.

“Average Monthly Fees” means: (x) if the Hotel has been operating as a franchised System Hotel for at least 24 full months prior to termination, the average monthly Franchise Fees and Program Services Contributions payable for the Hotel during the immediately preceding 24 months (calculated using the Franchise Fees specified in this Agreement and the Program Services Contribution in effect at the time of termination, but without giving effect to any discounts or incentives); provided that, if Franchisor determines that such calculation does not fairly represent the Hotel’s stabilized performance due to an Extraordinary Event, “Average Monthly Fees” will mean the average monthly Franchise Fees and Program Services Contributions payable for the Hotel during the immediately preceding 24 months during which an Extraordinary Event was not in effect, as determined by Franchisor (or, if fewer, the months since the Hotel has been operating as a franchised System Hotel) (“Hotel Average Fees”); and (y) if the Hotel has not operated as a franchised System Hotel for at least 24 months prior to termination, an amount equal to the greater of (a) the average monthly franchise fees and program services fund contributions payable for the previous 24 months for all franchised System Hotels on a per room basis multiplied by the number of Guestrooms at the Hotel or (b) Hotel Average Fees during the period the Hotel was operating as a franchised System Hotel; provided that, if Franchisee submitted revenue

projections in its application and either Franchisee or Franchisor believes that the calculation in (a) or (b) does not fairly represent the Hotel's projected stabilized performance, it will notify the other, in which case "Average Monthly Fees" will mean the average monthly Franchise Fees and Program Services Contributions that would have been payable based on the stabilized Hotel revenue projected by Franchisee in such application, without giving effect to any discounts or incentives.

"Case Goods" means furniture and fixtures used in the Hotel such as cabinets, shelves, chests, armoires, chairs, beds, headboards, desks, tables, mirrors, lighting fixtures and similar items.

"Category" means a group of System Hotels designated by Franchisor or its Affiliates based on criteria such as geographic (for example, local, regional, national or international) or other attributes (for example, resorts, urban, or suburban). A Category may have specific Standards or be a descriptive classification.

"Claim" means any demand, inquiry, investigation, action, claim or charge asserted, including in any judicial, arbitration, administrative, debtor or creditor proceeding, bankruptcy, insolvency, or similar proceeding.

"Competing Brand" means a brand, trade name, trademark, system, collection or chain of hotels, Vacation Club Products, whole ownership facilities, short-term rentals, home sharing facilities, or other similar lodging facilities that competes with a Franchisor Product.

"Competitor" means any Person, or any Person that is an Affiliate of a Person, that has a direct or indirect Ownership Interest in or Control of, is the Master Franchisee for, or is the franchisor or licensor of a Competing Brand. No Person will be considered a Competitor if such Person has an interest in a Competing Brand merely as: (i) a franchisee, licensee or a management company that owns or operates lodging facilities under a Competing Brand so long as such Person is not a Master Franchisee for such Competing Brand; or (ii) a passive investor that has no Control over the business decisions of the Competing Brand, such as limited partners or non-Controlling stockholders.

"Confidential Information" means: (i) the Standards; (ii) documents or trade secrets approved for the System or used in the design, construction, renovation or operation of the Hotel; (iii) any Electronic Systems and related documentation; (iv) Guest Personal Data; or (v) any other knowledge, trade secrets, business information or know-how obtained or generated (a) through the use of the System by Franchisee or the operation of the Hotel (or otherwise obtained from Franchisor or its Affiliates in the course of being a franchisee, licensee or owner of the Hotel or of System Hotels) that Franchisor deems confidential or (b) under any Marriott Agreements.

"Control" (in any form, including "Controlling" or "Controlled") means, for any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person or the power to veto major policy decisions of such Person. No Person (or Persons acting together) will be considered to have Control of a publicly-traded company merely due to ownership of voting stock of such company if such Persons collectively beneficially own less than 25% of the voting stock of such company.

"Control Affiliate" means an Affiliate of Franchisee that Controls Franchisee.

"Damages" means losses, costs (including legal or attorneys' fees, litigation costs and settlement payments), liabilities (including employment liabilities, bodily injury, death, property damage and loss, personal injury and mental injury), penalties, interest, and damages of every kind and description.

“Design Criteria” means those standards for the design of Hotel Improvements and such other information for planning, constructing or renovating and furnishing a System Hotel.

“Design Process” is defined in Section 4.4.

“Development Activities” means the development, promotion, construction, ownership, lease, acquisition, management or operation of: (i) Franchisor Products (including other System Hotels); and (ii) other business operations, in each case by Franchisor or its Affiliates, or the authorization, licensing or franchising to other Persons to conduct similar activities.

“Disclosure Document” means that certain document entitled “Franchise Disclosure Document” provided by Franchisor to prospective franchisees of System Hotels, as such document may be updated by Franchisor.

“Dispute” means any disagreement, controversy, or Claim relating to or arising out of any Marriott Agreement, the relationship created by any Marriott Agreement, or the validity or enforceability of any Marriott Agreement.

“Effective Date” means the date stated in Item 3 of Exhibit A.

“Electronic Systems” means all Software, Hardware and all electronic access to Franchisor’s systems and data (including telephone and internet access), licensed or made available to Franchisee relating to the System, including the Reservation System, the Property Management System, the Yield Management System and any other system established under Sections 7 and 10.

“Electronic Systems Fees” means the fees charged for the Hotel’s use of the Electronic Systems, which fees include the development and incremental operating costs, ongoing maintenance, field support costs and the reimbursement of capital invested in the development of such Electronic Systems, together with costs incurred by Franchisor to finance such capital.

“Extraordinary Event” means a Force Majeure Event, a temporary closure of all or part of the Hotel, or other similar event that causes a temporary and extraordinary change in the Hotel’s performance.

“F&B Support Fee” means the fees charged by Franchisor for the food and beverage program for System Hotels, which fees include the development, ongoing sustainment and field support costs and the reimbursement of capital invested in the development of such program, together with costs incurred by Franchisor to finance such capital.

“FF&E” means Case Goods, Soft Goods, signage and equipment (including telephone systems, printers, televisions, vending machines, and Hardware), but excludes any item included in Fixed Asset Supplies.

“Fixed Asset Supplies” means items such as linen, china, glassware, tableware, uniforms and similar items included within “Operating Equipment” under the Uniform System.

“Force Majeure Event” means an act of nature, terrorism, strike, war, governmental restrictions (including those related to pandemics, quarantine restrictions or other public health restrictions) or other causes beyond Franchisee’s control that affect the Hotel.

“Franchise Fees” is defined in Section 3.2.

“Franchisee” means the Person identified in Item 6 of Exhibit A.

“Franchisor” means the Person identified in Item 5 of Exhibit A, and its successors and assigns.

“Franchisor Products” means any hotels and other lodging products, Vacation Club Products, residential products (such as single family homes or multi-unit apartment buildings or individual units within such buildings), restaurants, and other products, services, activities and business operations of any type that are managed, franchised, licensed, owned, leased, developed, promoted or provided by or associated with (including by membership or affiliation), Franchisor or any of its Affiliates, now or in the future, in whole or in part, using any brand name available to Franchisor or its Affiliates (including any brands or concepts currently used by Franchisor or its Affiliates for hotels and other lodging products, Vacation Club Products, residential products, whole ownership facilities, home sharing facilities, and other similar products or concepts, and any future brands or concepts developed or used by Franchisor or its Affiliates) or not using any brand name.

“Gross Revenues” means all revenues and receipts of every kind (from both cash and credit transactions, with no reduction for charge backs, credit card service charges, or uncollectible amounts) derived from operating the Hotel. Gross Revenues includes revenues from: (i) Gross Room Sales; (ii) food and beverage sales; (iii) licenses, leases and concessions; (iv) equipment rental; (v) vending machines; (vi) telecommunications services; (vii) parking; (viii) health club or spa revenues; (ix) sales of merchandise; (x) service charges; (xi) condemnation proceeds for a temporary taking; (xii) any proceeds from business interruption or other loss of income insurance; and (xiii) any awards, judgments or settlements representing payment for loss of revenues. Gross Revenues excludes: gratuities received by Hotel employees; sales tax, value added tax, or similar taxes on such revenues and receipts; and proceeds from the sale of FF&E.

“Gross Room Sales” means all revenues and receipts of every kind that accrue from the rental of Guestrooms (with no reduction for charge backs, credit card service charges, or uncollectible amounts). Gross Room Sales includes: (i) no-show revenue, early departure fees, late check-out fees and other revenues allocable to rooms revenue under the Uniform System; (ii) resort fees, destination fees, and mandatory surcharges for facilities (although inclusion of such fees or surcharges does not constitute approval by Franchisor of such fees and surcharges, which may be limited or prohibited); (iii) fees for changes to reservations and attrition or cancellation fees collected from unfulfilled reservations for Guestrooms; (iv) the amount of all lost sales due to the non-availability of Guestrooms in connection with a casualty event, whether or not Franchisee receives business interruption insurance proceeds; and (v) any awards, judgments or settlements representing payment for loss of room sales. Gross Room Sales excludes sales tax, value added tax, or similar taxes on such revenues and receipts.

“Guarantor” means the Person or Persons, if any, who guarantee the performance of any of Franchisee’s obligations under the Marriott Agreements.

“Guaranty” means a guaranty, if any, executed by Guarantor for the benefit of Franchisor, the current form of which is included in the Disclosure Document.

“Guest Personal Data” means any information relating to identified or identifiable actual or potential guests or customers of the Hotel and other Franchisor Products, including contact information (such as addresses, phone numbers, facsimile numbers, email and SMS addresses), Guest Preferences and any other information collected from or about actual or potential guests or customers of the Hotel and other Franchisor Products.

“Guest Preferences” means guest histories, preferences, loyalty program activity and any other related information collected from or about actual or potential guests or customers of the Hotel and other Franchisor Products through the Loyalty Programs or other means.

“Guestroom” means each rentable unit in the Hotel consisting of a room, studio, suite or suite of rooms used for overnight guest accommodation, the entrance to which is controlled by the same key; however, adjacent rooms with connecting doors that can be locked and rented as separate units are considered separate Guestrooms.

“Hardware” means all computer hardware and other equipment (including all upgrades and replacements) required for the operation of any Electronic System.

“Hotel” means: (i) the Approved Location; (ii) Hotel Improvements; and (iii) all FF&E, Fixed Asset Supplies, and Inventories at the Hotel Improvements.

“Hotel Improvements” means the building or buildings containing Guestrooms, Public Facilities, administrative facilities, parking, pools, landscaping, and all other improvements constructed or to be constructed or renovated at the Approved Location.

“Initial Work” is defined in Section 4.2.

“Intellectual Property” means the following items, regardless of the form or medium (for example, paper, electronic, tangible or intangible): (i) all Software, including the data and information processed or stored by such Software; (ii) all Proprietary Marks; (iii) all Confidential Information; and (iv) all other information, materials, and subject matter that are copyrightable, patentable or can be protected under applicable intellectual property laws, and owned, developed, acquired, licensed, or used by Franchisor or its Affiliates for the System.

“Interestholder” means, for any Person, a Person that directly or indirectly holds an Ownership Interest in that Person.

“Inventories” means “Inventories” as defined in the Uniform System, including provisions in storerooms, refrigerators, pantries and kitchens; beverages; other merchandise intended for sale; fuel; mechanical supplies; stationery; and other expensed supplies and similar items.

“Inventory Management” means those inventory management services made available by Franchisor to Franchisee under revenue management or consulting agreements.

“Loyalty Programs” means all loyalty, recognition, affinity, and other programs designed to promote stays at, or usage of, the Hotel, System Hotels and such other Franchisor Products designated by Franchisor or its Affiliates, or any similar, complementary, or successor programs or combination thereof. As of the Effective Date, such programs include “Marriott Bonvoy” and various programs sponsored by airlines, credit card and other companies.

“Management Company” means a management company for the Hotel selected by Franchisee and consented to by Franchisor.

“Management Company Acknowledgment” means Franchisor’s written consent to the operation of the Hotel by the Person named therein.

“Marketing Fund” means money collected by Franchisor and its Affiliates for Marketing Fund Activities.

“Marketing Fund Activities” means, to the extent described in the Disclosure Document, the following activities Franchisor may undertake to promote general public recognition of Franchisor’s Marks, including the Proprietary Marks, and use of Franchisor Products, including the Loyalty Program and System Hotels, which may be conducted on a local, regional, national, continental, international or Category basis: (i) brand strategy and brand development activities; (ii) the creation, production, placement and distribution of Marketing Materials in any form of media; (iii) advertising, marketing, promotional, public relations, inventory management, reservation activities and sales campaigns, programs, sponsorships, seminars and other sales activities; (iv) market research and oversight and management of the guest satisfaction program and the Loyalty Programs; (v) development, modification, maintenance, support, administration and operation of the websites, applications, software and related technologies used to promote Franchisor Products, including System Hotels; and (vi) the retention or employment of personnel, advertising agencies, marketing consultants and other professionals to assist in the development, implementation and administration of any such activities.

“Marketing Fund Contribution” is defined in Section 3.7.B.

“Marketing Materials” means all advertising, marketing, promotional, sales and public relations concepts, press releases, materials, concepts, plans, programs, brochures, or other information to be released to the public, whether in paper, digital or electronic, or in any other form of media.

“Marks” means: (i) any trademarks, trade names, trade dress, words, symbols, logos, slogans, designs, insignia, emblems, devices, service marks, and indicia of origin (including taglines, program names, and restaurant, spa or other outlet names); and (ii) any combinations of the above; in each case, whether registered or unregistered.

“Marriott Agreements” means, collectively, this Agreement, any other agreements executed with this Agreement related to the Hotel and any other agreement, whenever executed, related to the Hotel to which Franchisee, Management Company, any Guarantor or any of their respective Affiliates is a party and to which Franchisor or any of its Affiliates is also a party or beneficiary, as such agreements may be amended.

“Master Franchisee” means a Person that has the exclusive rights to develop, operate or sub-license a Competing Brand.

“Opening Date” means July 6, 2005.

“Other Lodging Product” means a hotel, Vacation Club Products, whole ownership facilities, condominium, apartment or other similar lodging product that is not a Franchisor Product.

“Other Mark(s)” is defined in Section 11.3.

“Ownership Interest” means all forms of legal or beneficial ownership or Control of entities or property, including the following: stock, partnership, membership, joint tenancy, leasehold, proprietorship, trust, beneficiary, proxy, power-of-attorney, option, warrant, and any other interest that evidences ownership or Control, whether direct or indirect (unless otherwise specified).

“Passive Investor Interests” means non-Controlling Ownership Interests in Franchisee.

“Periodic Renovations” is defined in Section 4.3.

“Person” means an individual (and the heirs, executors, administrators or other legal representatives of an individual), a partnership, a joint venture, a firm, a company, a corporation, a governmental department or agency, a trustee, a trust, an unincorporated organization or any other legal entity.

“PIP” is defined in Exhibit C.

“Plans” means construction documents, including a site plan and architectural, mechanical, electrical, civil engineering, plumbing, landscaping and interior design drawings and specifications.

“Previous Franchise Agreement” means the Courtyard by Marriott Franchise Agreement dated April 26, 2017 between Marriott International, Inc. and Franchisee.

“Previous Rate” is defined in Section 3.5.E.

“Program Services” is defined in Section 3.7.A.

“Program Services Contribution” means the amount charged by Franchisor to the Hotel for Program Services.

“Program Services Fund” means money collected by Franchisor for Program Services.

“Property Management System” means all property management systems (including all Software, Hardware and electronic access) designated by Franchisor for use in the front office, back-of-the-office or other operations of System Hotels.

“Proprietary Marks” means any Marks, whether owned currently by Franchisor or any of its Affiliates or later developed or acquired, that are used or registered by Franchisor or one of its Affiliates, or by usage are associated with one or more System Hotels.

“Prospectus” means any registration statement, memorandum, offering document, or similar document for the sale or transfer of an Ownership Interest.

“Public Facilities” means the lobby areas, meeting rooms, convention or banquet facilities, restaurants, bars, lounges, corridors and other similar facilities at the Hotel.

“Qualified Person” means a Person that meets Franchisor’s then-current owner or management company qualifications, as the case may be, including that such Person or any of its Interestholders or their respective Affiliates: has not been convicted of a Serious Crime; is not a Competitor or a Restricted Person or a Person that receives funding from a Restricted Person; has not engaged in conduct that may adversely affect the Hotel, the System, or Franchisor; and has not been a party to any material civil litigation with Franchisor or its Affiliates.

“Quality Assurance Program” means the program that Franchisor uses to monitor guest satisfaction and the operations, facilities and services at System Hotels.

“Reasonable Business Judgment” is defined in Section 27.3.A.

**“Reservation System”** means any reservation system designated by Franchisor for System Hotels (including Software, Hardware and related electronic access).

**“Restricted Person”** means a Person: (a) that is identified by any government or legal authority as a Person with whom Franchisor or its Affiliates are prohibited or restricted from transacting business, including: (i) any Person on the U.S. Department of Treasury’s *Office of Foreign Assets Control List of Specially Designated Nationals and Blocked Persons*; the U.K. list of *Financial Sanctions Targets maintained by His Majesty’s Treasury*; the *Consolidated List of Persons, Groups and Entities Subject to EU Financial Sanctions*; or any other list or designation of targeted persons, entities, or groups under economic sanctions laws made by the United States, the European Union, the United Kingdom, or the United Nations Security Council; and (ii) any Person ordinarily resident, incorporated, or located in any Sanctioned Territory, or owned or Controlled by, or acting on behalf of, the government of any Sanctioned Territory; or (b) that is directly or indirectly Controlled by, or 10% or more owned by, or the designee of or acting on behalf of, any Person identified in clause (a).

**“Sales Agent”** means a Person who acts on behalf of Franchisee for: (i) Inventory Management; (ii) booking reservations at the Hotel or other booking activities, including accessing the Reservation System; or (iii) sales activities, including arranging group sales.

**“Sanctioned Territory”** means any country or territory subject to (i) a comprehensive export, import, or financial embargo under the U.S., U.K., E.U. or U.N.; or (ii) sanctions that materially and adversely restrict Franchisor from providing services under this Agreement in accordance with Standards or Franchisee from operating the Hotel in accordance with Standards.

**“Security Incident”** means the accidental, unauthorized or unlawful destruction, loss, damage, alteration, use, disclosure of, acquisition of, or access to, Confidential Information (including Guest Personal Data), any attack on or malicious intrusion into any Electronic System (such as a ransomware attack), or any event that gives rise to a reasonable likelihood of the same, or as otherwise updated or defined in the Standards.

**“Serious Crime”** means a crime punishable by either or both: (i) imprisonment of one year or more; or (ii) payment of a fine or penalty of \$10,000 (or the foreign currency equivalent) or more.

**“Similar Marks”** is defined in Section 11.2.A.6.

**“Soft Goods”** means wall and floor coverings, window treatments, carpeting, bedspreads, lamps, artwork, decorative items, pictures, wall decorations, upholstery, textile, fabric, vinyl and similar items used in the Hotel.

**“Software”** means all computer software (including all future upgrades and modifications) and related documentation provided by Franchisor or designated suppliers for the Electronic Systems.

**“Standards”** means Franchisor’s manuals, procedures, systems, guides, programs (including the Quality Assurance Program), requirements, directives, specifications, Design Criteria, and such other information and initiatives for operating System Hotels.

**“Support Services”** is defined in Section 7.3.B.

**“System”** means the Standards, Intellectual Property, the Electronic Systems, the Loyalty Programs, the Marketing Fund Activities, Additional Marketing Programs, Marketing Materials, training programs, and other elements that Franchisor or its Affiliates have designated for System Hotels.

“System Hotel” means a hotel operated by Franchisor, an Affiliate of Franchisor, or a franchisee or licensee of Franchisor or its Affiliates under the trade name(s) identified in Item 1 of Exhibit A in any of the 50 States of the United States of America, the District of Columbia and Canada, and excludes any other Franchisor Product or other business operation.

“Taxes” means taxes, levies, imposts, duties, fees, charges or liabilities imposed by any governmental authority, including any interest, additions to tax or penalties applicable to any of the foregoing.

“Term” is defined in Section 2.1.

“Transfer” means any absolute or conditional sale, conveyance, transfer, assignment, exchange, lease or other disposition.

“Transition Accounting Period” is defined in Section 3.5.D.

“Travel Costs” means all travel, food and lodging, living, and other out-of-pocket costs.

“Travel Management Companies” means travel agencies, online travel agencies, group intermediaries, wholesalers, concessionaires, and other similar travel companies.

“Uniform System” means the Uniform System of Accounts for the Lodging Industry, Eleventh Revised Edition, 2014, as published by the Hospitality Financial and Technology Professionals, or any later edition, revision or replacement that Franchisor designates.

“Vacation Club Products” means timeshare, fractional, interval, vacation club, destination club, vacation membership, private membership club, private residence club, and points club products, programs and services and includes other forms of products, programs and services where purchasers acquire an ownership interest, use or other rights to use determinable leisure units on a periodic basis and pay in advance for such ownership interest, use or other right.

“Yield Management System” means any yield management system (including all Software, Hardware and electronic access) designated by Franchisor for use by System Hotels.

**EXHIBIT C**  
**RENEWAL**

1. In order for the Hotel to continue to operate as a System Hotel, the Agreement is modified by, and the Hotel is to be renovated under, the terms of this Exhibit C and Section 4.4.
2. Franchisee represents and warrants that it has paid Franchisor's outside legal counsel fees and costs incurred for the preparation and negotiation of the Marriott Agreements.
3. Property Improvement Plan.

A. *Property Improvement Plan.* Based on a review of the Hotel, the property improvement plan prepared by Franchisor and attached as Exhibit A to that certain amendment dated December 13, 2024 to the Previous Franchise Agreement outlines the renovation requirements for the Hotel to continue to operate as a System Hotel (the "PIP"). All such requirements are hereby incorporated herein by reference with the same force and effect as though fully set forth in this Agreement, and all such requirements that were not completed prior to the Effective Date must be completed by June 28, 2032. All renovations, furniture, fixtures and equipment will conform to the then-current System specifications at the time such work is completed. Completion of the PIP does not satisfy Franchisee's obligation to renovate the Hotel under Section 4.3.

B. *Material Change Review.* If any material changes to the Hotel occur after the date stated in Item 19 of Exhibit A, then Franchisor may re-inspect the Hotel ("Material Change Review") and modify the PIP to address such material changes. Franchisee will complete the modified PIP, including any additional requirements, to Franchisor's satisfaction. Franchisee and its contractors will cooperate fully with any inspections Franchisor conducts under a Material Change Review.

C. *PIP Deadlines.* Franchisee will perform each item in the PIP by the date stated in the PIP with respect to such item. Time is of the essence, but if Franchisee wishes to extend the deadlines for completion of items in the PIP, Franchisee will make a written request giving the reasons for the delay. If the delay is caused by a Force Majeure Event (excluding for the avoidance of doubt, unavailability of financing), Franchisor will equitably extend such deadlines. If the delay is not caused by a Force Majeure Event, Franchisor may, in its sole discretion, extend such deadlines. For any extension, Franchisor may require Franchisee to pay its then-current extension fee. The extension fee will be paid to Franchisor with the request for the extension and is nonrefundable unless Franchisor declines to grant the requested extension. No extension under this Section 3.C will be granted for more than six months.

D. *Permits and Certifications.* Franchisee will obtain all permits and certifications required for lawful 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.

E. *Compliance.* Franchisee will ensure that the Hotel complies with Applicable Law, the Standards and the Design Criteria, including the fire protection and life safety Standards (even if such Standards exceed local code requirements).

F. *Franchisee's Responsibilities.* Franchisee is responsible for the entire cost of renovating, equipping, supplying and furnishing the Hotel as a System Hotel.

G. *Site Visits.* During renovation, Franchisor's representatives may visit the job site at any time to observe the work, and Franchisee, its contractors and subcontractors will cooperate fully

with any such site visits. Upon request, Franchisee will submit photos showing the progress of renovation to Franchisor. Franchisor may submit any deficiencies or discrepancies to Franchisee, and Franchisee will promptly correct such items. If any site visits and inspections are necessary to ensure the Hotel complies with the PIP, Franchisor may charge its then-current fee for the time spent inspecting the Hotel plus Travel Costs.

H. *Accessibility Certification.* Franchisee will not be deemed to have satisfied the requirements of the PIP until Franchisee delivers a certification from its licensed architect, engineer, or recognized expert consultant on Accessibility Requirements in the form attached to this Exhibit C as Attachment One.

I. *Fire Protection and Life Safety Certification.* Franchisee will not be deemed to have satisfied the requirements of the PIP until Franchisee has retained Franchisor and paid Franchisor the then-current testing and inspection fee to test and inspect the fire protection and life safety systems of the Hotel, and such testing and inspection verifies the Hotel complies with Franchisor's fire protection and life safety Standards and the fire protection and life safety systems of the Hotel are operational.

J. *Completion.* Franchisee will not be deemed to have satisfied the requirements of the PIP until Franchisor has confirmed completion.

**ATTACHMENT ONE  
TO EXHIBIT C**

**ADA CERTIFICATION**

(to be completed by Franchisee's licensed architect, engineer, or ADA consultant)

In connection with the [NAME AND LOCATION OF HOTEL] (the "Hotel"), I hereby certify to [FRANCHISEE] and to [FRANCHISOR] that:

**[For an "historic hotel" insert: The Hotel [is eligible for listing in the National Register of Historic Places under the National Historic Preservation Act] [has been designated as historic under State or local law] [is a qualified historic building under the Uniform Federal Accessibility Standards] (an "historic hotel");]**

I have used professionally reasonable efforts to ensure that the Hotel complies with the requirements of the Americans with Disabilities Act ("ADA") **[For an "historic hotel" insert: as applicable to an historic hotel]**, 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 that this certification is made; and

In my professional judgment, the Hotel does in fact comply with such requirements.

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Date: \_\_\_\_\_

<b>Summary report:</b>	
<b>Litera Compare for Word 11.5.0.74 Document comparison done on 11/20/2025 10:25:48 AM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original DMS:</b> nd://4908-3494-1816/1/Birmingham Downtown at UAB AL - Renewal Franchise Agreement(68233269.1).docx	
<b>Modified DMS:</b> nd://4908-3494-1816/2/Birmingham Downtown at UAB AL - Renewal Franchise Agreement(68233269.1).docx	
<b>Changes:</b>	
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Delete	26
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>62</b>