
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-Q

(Mark One)

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF
THE SECURITIES EXCHANGE ACT OF 1934
For the quarterly period ended March 31, 2009**

or

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF
THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from to**

Commission file number 1-14236

FelCor Lodging Trust Incorporated

(Exact name of registrant as specified in its charter)

Maryland

(State or other jurisdiction of
incorporation or organization)

75-2541756

(I.R.S. Employer
Identification No.)

545 E. John Carpenter Freeway, Suite 1300, Irving, Texas

(Address of principal executive offices)

75062

(Zip Code)

(972) 444-4900

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15 (d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definition of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)

Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

The number of shares of Common Stock, par value \$.01 per share, of FelCor Lodging Trust Incorporated outstanding on April 30, 2009 was 64,690,076.

FELCOR LODGING TRUST INCORPORATED

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PART I. -- FINANCIAL INFORMATION

Item 1. Financial Statements

FELCOR LODGING TRUST INCORPORATED

CONSOLIDATED BALANCE SHEETS

(unaudited, in thousands)

	<u>March 31,</u> <u>2009</u>	<u>December 31,</u> <u>2008</u>
Assets		
Investment in hotels, net of accumulated depreciation of \$849,380 at March 31, 2009 and \$816,271 at December 31, 2008.....	\$ 2,261,572	\$ 2,279,026
Investment in unconsolidated entities.....	88,298	94,506
Cash and cash equivalents.....	52,956	50,187
Restricted cash.....	12,372	13,213
Accounts receivable, net of allowance for doubtful accounts of \$389 at March 31, 2009 and \$521 at December 31, 2008.....	37,749	35,240
Deferred expenses, net of accumulated amortization of \$11,550 at March 31, 2009 and \$13,087 at December 31, 2008.....	7,017	5,556
Other assets.....	31,192	34,541
Total assets.....	<u>\$ 2,491,156</u>	<u>\$ 2,512,269</u>
Liabilities and Equity		
Debt, net of discount of \$1,409 at March 31, 2009 and \$1,544 at December 31, 2008.....	\$ 1,565,159	\$ 1,551,686
Distributions payable.....	8,545	8,545
Accrued expenses and other liabilities.....	129,826	132,604
Total liabilities.....	<u>1,703,530</u>	<u>1,692,835</u>
Commitments and contingencies		
Redeemable noncontrolling interests in FelCor LP at redemption value, 296 units issued and outstanding at March 31, 2009 and December 31, 2008...	<u>402</u>	<u>545</u>
Equity:		
Preferred stock, \$0.01 par value, 20,000 shares authorized:		
Series A Cumulative Convertible Preferred Stock, 12,880 shares, liquidation value of \$322,011, issued and outstanding at March 31, 2009 and December 31, 2008.....	309,362	309,362
Series C Cumulative Redeemable Preferred Stock, 68 shares, liquidation value of \$169,950, issued and outstanding at March 31, 2009 and December 31, 2008.....	169,412	169,412
Common stock, \$.01 par value, 200,000 shares authorized and 69,413 shares issued and outstanding, including shares in treasury, at March 31, 2009 and December 31, 2008.....	694	694
Additional paid-in capital.....	2,035,773	2,045,482
Accumulated other comprehensive income.....	13,646	15,347
Accumulated deficit.....	(1,676,695)	(1,645,947)
Less: Common stock in treasury, at cost, of 4,648 shares at March 31, 2009 and 5,189 shares at December 31, 2008.....	(88,224)	(99,245)
Total FelCor stockholders' equity.....	763,968	795,105
Noncontrolling interests in other partnerships.....	23,256	23,784
Total equity.....	<u>787,224</u>	<u>818,889</u>
Total liabilities and equity.....	<u>\$ 2,491,156</u>	<u>\$ 2,512,269</u>

The accompanying notes are an integral part of these consolidated financial statements.

FELCOR LODGING TRUST INCORPORATED

CONSOLIDATED STATEMENTS OF OPERATIONS
For the Three Months Ended March 31, 2009 and 2008
(unaudited, in thousands, except for per share data)

	Three Months Ended	
	March 31,	
	2009	2008
Revenues:		
Hotel operating revenue	\$ 234,002	\$ 291,547
Other revenue	286	328
Total revenues	234,288	291,875
Expenses:		
Hotel departmental expenses	81,578	97,126
Other property related costs	67,307	77,125
Management and franchise fees	11,507	15,902
Taxes, insurance and lease expense	25,031	29,304
Corporate expenses	6,122	6,827
Depreciation and amortization	37,385	33,768
Impairment loss	1,368	17,131
Other expenses	696	933
Total operating expenses	230,994	278,116
Operating income	3,294	13,759
Interest expense, net	(21,292)	(26,003)
Loss before equity in loss from unconsolidated entities	(17,998)	(12,244)
Equity in loss from unconsolidated entities	(3,424)	(622)
Loss from continuing operations	(21,422)	(12,866)
Discontinued operations	-	(13)
Net loss	(21,422)	(12,879)
Net loss (income) attributable to noncontrolling interests in other partnerships	216	(71)
Net loss attributable to redeemable noncontrolling interests in FelCor LP	142	477
Net loss attributable to FelCor	(21,064)	(12,473)
Preferred dividends	(9,678)	(9,678)
Net loss applicable to FelCor common stockholders	\$ (30,742)	\$ (22,151)
Basic and diluted per common share data:		
Net loss from continuing operations attributable to FelCor common stockholders	\$ (0.49)	\$ (0.36)
Net loss attributable to FelCor common stockholders	\$ (0.49)	\$ (0.36)
Basic and diluted weighted average common shares outstanding	62,989	61,714
Cash dividends declared on common stock	\$ -	\$ 0.35

The accompanying notes are an integral part of these consolidated financial statements.

FELCOR LODGING TRUST INCORPORATED

CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS
For the Three Months Ended March 31, 2009 and 2008
(unaudited, in thousands)

	Three Months Ended March 31,	
	2009	2008
Net loss	\$ (21,422)	\$ (12,879)
Foreign currency translation adjustment.....	(1,709)	(1,730)
Comprehensive loss	(23,131)	(14,609)
Comprehensive loss (income) attributable to noncontrolling interests in other partnerships ..	216	(71)
Comprehensive loss attributable to redeemable noncontrolling interests in FelCor LP	150	514
Comprehensive loss attributable to FelCor.....	\$ (22,765)	\$ (14,166)

The accompanying notes are an integral part of these consolidated financial statements

FELCOR LODGING TRUST INCORPORATED
CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY
For the Year Ended December 31, 2008 and the Three Months Ended March 31, 2009
(unaudited, in thousands)

	<u>Preferred Stock</u>		<u>Common Stock</u>		<u>Additional Paid-in Capital</u>	<u>Accumulated Other Comprehensive Income</u>	<u>Accumulated Deficit</u>	<u>Treasury Stock</u>	<u>Noncontrolling interests</u>	<u>Total Equity</u>
	<u>Number of Shares</u>	<u>Amount</u>	<u>Number of Shares</u>	<u>Amount</u>						
Balance at December 31, 2007	12,948	\$ 478,774	69,413	\$ 694	\$ 2,053,761	\$ 26,871	\$ (1,434,393)	\$ (128,504)	\$ 25,264	\$ 1,022,467
Foreign exchange translation	-	-	-	-	-	(11,524)	-	-	-	(11,524)
Issuance of stock awards	-	-	-	-	(9,013)	-	-	9,572	-	559
Amortization of stock awards	-	-	-	-	4,943	-	-	-	-	4,943
Forfeiture of stock awards	-	-	-	-	-	-	-	(548)	-	(548)
Conversion of operating partnership units into common shares	-	-	-	-	(20,235)	-	-	20,235	-	-
Redemption value allocation of redeemable noncontrolling interests	-	-	-	-	16,064	-	-	-	-	16,064
Costs related to shelf registration	-	-	-	-	(38)	-	-	-	-	(38)
Contribution from noncontrolling interests	-	-	-	-	-	-	-	-	565	565
Distribution to noncontrolling interests	-	-	-	-	-	-	-	-	(3,236)	(3,236)
Dividends declared:										
\$0.85 per common share	-	-	-	-	-	-	(53,596)	-	-	(53,596)
\$1.95 per Series A preferred share	-	-	-	-	-	-	(25,117)	-	-	(25,117)
\$2.00 per Series C depositary preferred share	-	-	-	-	-	-	(13,596)	-	-	(13,596)
Net income (loss)	-	-	-	-	-	-	(119,245)	-	1,191	(118,054)
Balance at December 31, 2008	12,948	478,774	69,413	694	2,045,482	15,347	(1,645,947)	(99,245)	23,784	818,889
Foreign exchange translation	-	-	-	-	-	(1,701)	-	-	-	(1,701)
Issuance of stock awards	-	-	-	-	(11,362)	-	-	11,070	-	(292)
Amortization of stock awards	-	-	-	-	1,660	-	-	-	-	1,660
Forfeiture of stock awards	-	-	-	-	-	-	-	(49)	-	(49)
Redemption value allocation of redeemable noncontrolling interests	-	-	-	-	(7)	-	-	-	-	(7)
Contribution from noncontrolling interests	-	-	-	-	-	-	-	-	85	85
Distribution to noncontrolling interests	-	-	-	-	-	-	-	-	(397)	(397)
Other	-	-	-	-	-	-	(6)	-	-	(6)
Dividends declared:										
\$0.4875 per Series A preferred share	-	-	-	-	-	-	(6,279)	-	-	(6,279)
\$0.50 per Series C depositary preferred share	-	-	-	-	-	-	(3,399)	-	-	(3,399)
Net loss	-	-	-	-	-	-	(21,064)	-	(216)	(21,280)
Balance at March 31, 2009	12,948	\$ 478,774	69,413	\$ 694	\$ 2,035,773	\$ 13,646	\$ (1,676,695)	\$ (88,224)	\$ 23,256	\$ 787,224

The accompanying notes are an integral part of these consolidated financial statements.

FELCOR LODGING TRUST INCORPORATED
CONSOLIDATED STATEMENTS OF CASH FLOWS
For the Three Months Ended March 31, 2009 and 2008
(unaudited, in thousands)

	Three Months Ended March 31,	
	2009	2008
Cash flows from operating activities:		
Net loss	\$ (21,422)	\$ (12,879)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	37,385	33,768
Amortization of deferred financing fees and debt discount	714	718
Amortization of unearned officers' and directors' compensation	1,398	1,265
Equity in loss from unconsolidated entities	3,424	622
Distributions of income from unconsolidated entities	585	819
Impairment loss on hotels	1,368	17,131
Changes in assets and liabilities:		
Accounts receivable	(1,776)	(11,863)
Restricted cash – operations	897	(1,697)
Other assets	1,242	3,170
Accrued expenses and other liabilities	634	16,428
Net cash flow provided by operating activities	<u>24,449</u>	<u>47,482</u>
Cash flows from investing activities:		
Improvements and additions to hotels	(25,274)	(42,374)
Additions to condominium project	(48)	-
Decrease in restricted cash – investing	(56)	424
Redemption of investment securities	473	2,525
Cash distributions from unconsolidated entities	2,200	21,458
Capital contribution to unconsolidated entities	-	(5,995)
Net cash flow used in investing activities	<u>(22,705)</u>	<u>(23,962)</u>
Cash flows from financing activities:		
Proceeds from borrowings	198,317	40,000
Repayment of borrowings	(184,980)	(16,942)
Payment of deferred financing fees	(1,982)	-
Distributions paid to other partnerships' noncontrolling interests	(397)	(1,000)
Contributions from noncontrolling interests	85	537
Distributions paid to redeemable noncontrolling interests in FelCor LP	-	(470)
Distributions paid to preferred stockholders	(9,678)	(9,678)
Distributions paid to common stockholders	-	(21,948)
Net cash flow provided by (used in) financing activities	<u>1,365</u>	<u>(9,501)</u>
Effect of exchange rate changes on cash	(340)	(303)
Net change in cash and cash equivalents	2,769	13,716
Cash and cash equivalents at beginning of periods	50,187	57,609
Cash and cash equivalents at end of periods	<u>\$ 52,956</u>	<u>\$ 71,325</u>
Supplemental cash flow information — interest paid	<u>\$ 13,105</u>	<u>\$ 17,061</u>

The accompanying notes are an integral part of these consolidated financial statements.

FELCOR LODGING TRUST INCORPORATED

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. Organization

FelCor Lodging Trust Incorporated (NYSE:FCH), or FelCor, is a Maryland corporation operating as a real estate investment trust, or REIT. We are the sole general partner of, and the owner of a greater than 99% partnership interest in, FelCor Lodging Limited Partnership, or FelCor LP, through which we held ownership interests in 88 hotels with approximately 25,000 rooms and suites at March 31, 2009.

Of the 88 hotels in which we had an ownership interest at March 31, 2009, we owned a 100% interest in 66 hotels, a 90% or greater interest in entities owning four hotels, a 75% interest in an entity owning one hotel, a 60% interest in an entity owning one hotel and a 50% interest in entities owning 16 hotels. We leased 87 of our hotels to operating lessees and one 50%-owned hotel is operated without a lease.

We consolidated the operating lessees of 85 of our hotels (which we refer to as our Consolidated Hotels) because of our controlling interest in those operating lessees. These hotels include 13 of the 16 hotels in which we had a 50% ownership interest at March 31, 2009. The hotel operating revenues and expenses of our other three hotels (in which we had a 50% ownership interest) were not consolidated.

At March 31, 2009, we had an aggregate of 65,060,330 shares and units outstanding, consisting of 64,764,487 shares of FelCor common stock and 295,843 units of FelCor LP limited partnership interest not owned by FelCor.

The following table illustrates the distribution of our 85 Consolidated Hotels among our various brands at March 31, 2009:

Brand	Hotels	Rooms
Embassy Suites Hotels [®]	47	12,132
Holiday Inn [®]	17	6,306
Sheraton [®] and Westin [®]	9	3,217
Doubletree [®]	7	1,471
Marriott [®] and Renaissance [®]	3	1,321
Hilton [®]	2	559
Total hotels.....	<u>85</u>	

At March 31, 2009, our Consolidated Hotels were located in the United States (83 hotels in 23 states) and Canada (two hotels in Ontario), with concentrations in California (15 hotels), Florida (14 hotels) and Texas (11 hotels). Approximately 54% of our hotel room revenues were generated from hotels in these three states during 2009.

At March 31, 2009, of our 85 Consolidated Hotels (i) subsidiaries of Hilton Hotels Corporation, or Hilton, managed 54 hotels, (ii) subsidiaries of InterContinental Hotels Group, or IHG, managed 17 hotels, (iii) subsidiaries of Starwood Hotels & Resorts Worldwide Inc., or Starwood, managed nine hotels, (iv) subsidiaries of Marriott International Inc., or Marriott, managed three hotels, and (v) independent management companies managed two hotels.

Our hotels managed by Marriott are accounted for on a fiscal year comprised of 52 or 53 weeks ending on the Friday closest to December 31. Their 2009 and 2008 first fiscal quarters ended on March 27, 2009 and March 21, 2008, respectively.

FELCOR LODGING TRUST INCORPORATED

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. Organization – (continued)

The information in our consolidated financial statements for the three months ended March 31, 2009 and 2008 is unaudited. Preparing financial statements in conformity with accounting principles generally accepted in the United States of America, or GAAP, requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates. The accompanying financial statements for the three months ended March 31, 2009 and 2008, include adjustments based on management's estimates (consisting of normal and recurring accruals), which we consider necessary for a fair presentation of the results for the periods. The financial information should be read in conjunction with the consolidated financial statements for the year ended December 31, 2008, included in our Annual Report on Form 10-K. Operating results for the three months ended March 31, 2009 are not necessarily indicative of actual operating results for the entire year.

2. Investment in Unconsolidated Entities

We owned 50% interests in joint venture entities that owned 16 hotels at March 31, 2009 and 17 hotels at December 31, 2008. We also owned a 50% interest in joint venture entities that own real estate in Myrtle Beach, South Carolina, provide condominium management services and lease three hotels. We account for our investments in these unconsolidated entities under the equity method. We do not have any majority-owned subsidiaries that are not consolidated in our financial statements. We make adjustments to our equity in income from unconsolidated entities related to the depreciation of our excess basis in investment in unconsolidated entities when compared to the historical basis of the assets recorded by the joint ventures.

The following table summarizes combined financial information for our unconsolidated entities (in thousands):

	<u>March 31,</u> <u>2009</u>	<u>December 31,</u> <u>2008</u>
Balance sheet information:		
Investment in hotels, net of accumulated depreciation.....	\$ 279,558	\$ 290,504
Total assets	\$ 301,923	\$ 317,672
Debt	\$ 220,662	\$ 224,440
Total liabilities.....	\$ 228,407	\$ 233,296
Equity	\$ 73,516	\$ 84,376

Our unconsolidated entities' debt at March 31, 2009 and December 31, 2008 consisted entirely of non-recourse mortgage debt.

FELCOR LODGING TRUST INCORPORATED

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

2. Investment in Unconsolidated Entities – (continued)

Summarized combined statement of operations information for our unconsolidated entities follows (in thousands):

	Three Months Ended March 31,	
	2009	2008
Total revenues.....	\$ 14,738	\$ 18,943
Net loss	\$ (1,799)	\$ (178)
Net loss attributable to FelCor	\$ (889)	\$ (155)
Impairment loss.....	(2,068) ^(a)	-
Depreciation of cost in excess of book value.....	(467)	(467)
Equity in loss from unconsolidated entities	<u>\$ (3,424)</u>	<u>\$ (622)</u>

- (a) One of our unconsolidated investments recorded an impairment charge for one of its held-for-sale assets under the provisions of SFAS 144. The SFAS 144 impairment recorded by the unconsolidated entity was based on a sales contract for one of the entity's assets (a Level 1 input under SFAS 157) which closed on April 23, 2009. As a result of this charge, the net book value of the joint venture's assets no longer supported the recovery of our investment. Therefore, we recorded an impairment charge to reduce our investment in this joint venture to zero. We have no obligation to provide this joint venture with future funding.

The components of our investment in unconsolidated entities are summarized as follows (in thousands):

	March 31, 2009	December 31, 2008
Hotel related-investments	\$ 28,028	\$ 31,102
Cost in excess of book value of hotel investments	49,398	51,933
Land and condominium investments	10,872	11,471
	<u>\$ 88,298</u>	<u>\$ 94,506</u>

The components of our equity in loss from unconsolidated entities are summarized as follows (in thousands):

	Three Months Ended March 31,	
	2009	2008
Hotel investments	\$ (2,826)	\$ 33
Other investments	(598)	(655)
Equity in loss from unconsolidated entities	<u>\$ (3,424)</u>	<u>\$ (622)</u>

In the first quarter of 2009, a 50%-owned joint venture entity sold the Ramada Hotel in Hays, Kansas for gross proceeds of \$2.8 million. All proceeds from this sale were used to repay the debt of this venture.

FELCOR LODGING TRUST INCORPORATED

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

3. Debt

Debt at March 31, 2009 and December 31, 2008 consisted of the following (in thousands):

	Encumbered Hotels	Interest Rate at March 31, 2009	Maturity Date	Balance Outstanding	
				March 31, 2009	December 31, 2008
Senior term notes	none	9.00% ^(a)	June 2011	\$ 299,477	\$ 299,414
Senior term notes	none	L + 1.875	December 2011	215,000	215,000
Line of credit ^(b)	none	L + 1.00	August 2011 ^(c)	128,000	113,000
Total line of credit and senior debt ^(d)		5.71		642,477	627,414
Mortgage debt	12 hotels	L + 0.93 ^(e)	November 2011 ^(f)	250,000	250,000
Mortgage debt	2 hotels	L + 1.55 ^(g)	May 2012 ^(h)	176,339	176,267
Mortgage debt	8 hotels	8.70	May 2010	161,206	162,250
Mortgage debt ⁽ⁱ⁾	7 hotels	9.02	April 2014	118,293	117,131
Mortgage debt	6 hotels	8.73	May 2010	115,418	116,285
Mortgage debt	5 hotels	6.66	June - August 2014	72,111	72,517
Mortgage debt	2 hotels	6.15	June 2009	14,518	14,641
Mortgage debt	1 hotel	5.81	July 2016	12,038	12,137
Other	1 hotel	various	various	2,759	3,044
Total mortgage debt ^(d)	44 hotels	5.27		922,682	924,272
Total		5.45%		\$ 1,565,159	\$ 1,551,686

- (a) Our senior notes are currently rated B2 and B by Moody's Investor Service and Standard & Poor's Rating Services, respectively. As a result of rating downgrading of our senior notes, the interest rate on \$300 million of our senior notes due 2011 was increased by 50 basis points to 9.0%, effective February 13, 2009. If either Moody's or Standard & Poor's increases our senior note ratings to Ba3 or BB-, respectively, the interest rate would decrease to 8.5%.
- (b) We have a \$250 million line of credit, of which \$128 million was outstanding at March 31, 2009. The interest rate can range from 80 to 150 basis points over LIBOR, based on our leverage ratio as defined in our line of credit agreement.
- (c) This can be extended to 2012 under certain conditions.
- (d) Interest rates are calculated based on the weighted average debt outstanding at March 31, 2009.
- (e) We have purchased an interest rate cap that caps LIBOR at 7.8% and expires in November 2009 for this notional amount.
- (f) The maturity date assumes that we will exercise the remaining two one-year extension options that permit, at our sole discretion, the current November 2009 maturity to be extended to 2011.
- (g) We have purchased interest rate caps that cap LIBOR at 6.5% and expire in May 2010 for aggregate notional amounts of \$177 million.
- (h) We have exercised the first of three successive one-year extension options that permit, at our sole discretion, the original May 2009 maturity to be extended to 2012.
- (i) This debt was refinanced in March 2009.

FELCOR LODGING TRUST INCORPORATED

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

3. Debt – (continued)

We reported interest expense of \$21.3 million and \$26.0 million for the three months ended March 31, 2009 and 2008, respectively, which is net of: (i) interest income of \$0.2 million and \$0.6 million, respectively, and (ii) capitalized interest of \$0.2 million and \$0.4 million, respectively.

Our line of credit contains certain restrictive financial covenants, with which we were in compliance at the date of this filing. Our compliance with these covenants in future periods will depend substantially on the financial results of our hotels. If current financial market conditions persist and our business continues to deteriorate, we may fail to comply with one or more of these covenants in 2009.

We have agreed in principle on the material terms with the lead lender of a new \$200 million term loan, which would be secured by first mortgages on nine currently unencumbered hotels and, assuming all extension options are exercised, will not mature until 2013. This loan would not be subject to any corporate financial covenants and would only be recourse to the borrower, a to-be-formed wholly-owned subsidiary. While we believe that we will successfully close our new secured term loan, as discussed above, we have several other alternatives available to ensure continued compliance with our financial covenants or repay our line of credit, including identifying other sources of debt or equity financing, selling unencumbered hotels and/or implementing additional cost cutting measures. Of course, we can provide no assurance that we will be able to close our new secured term loan, identify additional sources of debt or equity financing or sell hotels on terms that are favorable or otherwise acceptable to us.

In March 2009, we entered into a loan agreement with The Prudential Insurance Company of America secured by mortgages on seven hotels. The proceeds of the loan were used to repay the balance of an existing loan secured by the same properties that would have matured on April 1, 2009. The loan matures in 2014 and bears interest at an annual rate of 9.02%. FelCor has the right to prepay the loan and/or obtain partial release of one or more of the mortgages, subject to certain conditions.

4. Hotel Operating Revenue, Departmental Expenses and Other Property Operating Costs

Hotel operating revenue from continuing operations was comprised of the following (in thousands):

	Three Months Ended	
	March 31,	
	2009	2008
Room revenue	\$ 183,000	\$ 230,132
Food and beverage revenue	37,113	46,508
Other operating departments	13,889	14,907
Total hotel operating revenue	<u>\$ 234,002</u>	<u>\$ 291,547</u>

For both of the three month periods ended March 31, 2009 and 2008, nearly all of our revenue was comprised of hotel operating revenue, which included room revenue, food and beverage revenue, and revenue from other hotel operating departments (such as telephone, parking and business centers). These revenues are recorded net of any sales or occupancy taxes collected from our guests. All rebates or discounts are recorded, when allowed, as a reduction in revenue, and there are no material contingent obligations with respect to rebates or discounts offered by us. All revenues are recorded on an accrual basis, as earned. Appropriate allowances are made for doubtful accounts, which are recorded as a bad debt expense. The remainder of our revenue was derived from other sources.

FELCOR LODGING TRUST INCORPORATED

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

4. Hotel Operating Revenue, Departmental Expenses and Other Property Operating Costs – (continued)

Hotel departmental expenses from continuing operations were comprised of the following (in thousands):

	Three Months Ended March 31,			
	2009		2008	
	Amount	% of Total Hotel Operating Revenue	Amount	% of Total Hotel Operating Revenue
Room.....	\$ 46,500	19.9 %	\$ 54,651	18.7 %
Food and beverage	28,871	12.3	35,446	12.2
Other operating departments.....	6,207	2.7	7,029	2.4
Total hotel departmental expenses	<u>\$ 81,578</u>	<u>34.9 %</u>	<u>\$ 97,126</u>	<u>33.3 %</u>

Other property operating costs from continuing operations were comprised of the following (in thousands):

	Three Months Ended March 31,			
	2009		2008	
	Amount	% of Total Hotel Operating Revenue	Amount	% of Total Hotel Operating Revenue
Hotel general and administrative expense	\$ 21,618	9.2%	\$ 25,261	8.7%
Marketing.....	19,925	8.5	23,938	8.2
Repair and maintenance	12,984	5.6	14,761	5.1
Utilities	12,780	5.5	13,165	4.5
Total other property operating costs	<u>\$ 67,307</u>	<u>28.8%</u>	<u>\$ 77,125</u>	<u>26.5%</u>

Hotel departmental expenses and other property operating costs include hotel employee compensation and benefit expenses of \$74.1 million and \$84.6 million for the three months ended March 31, 2009 and 2008, respectively.

5. Taxes, Insurance and Lease Expense

Taxes, insurance and lease expense from continuing operations were comprised of the following (in thousands):

	Three Months Ended March 31,	
	2009	2008
Operating lease expense ^(a)	\$ 12,247	\$ 14,836
Real estate and other taxes	9,203	10,874
Property insurance, general liability insurance and other	3,581	3,594
Total taxes, insurance and lease expense	<u>\$ 25,031</u>	<u>\$ 29,304</u>

(a) Includes lease expense related to our 51%-owned operating lessees of \$10.1 million and \$12.2 million (paid to 13 of our unconsolidated, 50%-owned ventures) and \$2.2 million and \$2.6 million of ground lease expense for the three months ended March 31, 2009 and 2008, respectively. Operating lease expense includes percentage rent (based on operating results) of \$4.4 million and \$6.8 million for the three months ended March 31, 2009 and 2008, respectively.

FELCOR LODGING TRUST INCORPORATED

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

6. Impairment Charge

Our hotels are comprised of operations and cash flows that can clearly be distinguished, operationally and for financial reporting purposes, from the remainder of our operations. Accordingly, we consider our hotels to be components as defined by SFAS No. 144 for purposes of determining impairment charges and reporting discontinued operations.

During 2008, we identified eight hotels as candidates to be sold and tested them for impairment (three no longer are identified as candidates for sale and five hotels remain sale candidates). Of the hotels tested, two failed the test under SFAS No. 144, which resulted in a \$17.1 million impairment charge in the quarter ended March 31, 2008 to write down these hotel assets to our then current estimate of their fair market value before selling expenses. During the quarter ended March 31, 2009, we recorded an impairment charge of \$1.4 million on one of the five remaining sale candidates based on an offer to purchase received from a third party (a Level 2 input under SFAS 157) at a price less than our previously estimated fair value. Under current market conditions, we do not consider a sale to be probable within the next twelve months (i.e. held for sale under SFAS 144) until a buyer has completed its due diligence review of the asset, we have an executed a contract for sale, and have received a substantial non-refundable deposit. The hotels identified as sale candidates continue to be depreciated over their remaining useful lives.

We may be subject to additional impairment charges in the event that operating results of individual hotels are materially different from our forecasts, the economy or lodging industry weakens, or we shorten our contemplated holding period for certain of our hotels.

FELCOR LODGING TRUST INCORPORATED

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

7. Loss Per Share

The computation of basic and diluted loss per share is as follows (in thousands, except per share data):

	Three Months Ended March 31,	
	2009	2008
Numerator:		
Loss from continuing operations	\$ (21,422)	\$ (12,866)
Net loss (income) attributable to noncontrolling interests in other partnerships	216	(71)
Net loss attributable to redeemable noncontrolling interests in FelCor LP	142	477
Net loss from continuing operations attributable to FelCor.....	(21,064)	(12,460)
Less: Preferred dividends	(9,678)	(9,678)
Loss from continuing operations applicable to FelCor common stockholders.....	(30,742)	(22,138)
Discontinued operations	-	(13)
Net loss applicable to FelCor common stockholders.....	\$ (30,742)	\$ (22,151)
Denominator:		
Denominator for basic loss per share.....	62,989	61,714
Denominator for diluted loss per share.....	62,989	61,714
Loss per share data:		
Basic:		
Loss from continuing operations attributable to FelCor	\$ (0.49)	\$ (0.36)
Discontinued operations	\$ -	\$ -
Net loss attributable to FelCor.....	\$ (0.49)	\$ (0.36)
Diluted:		
Loss from continuing operations attributable to FelCor	\$ (0.49)	\$ (0.36)
Discontinued operations	\$ -	\$ -
Net loss attributable to FelCor.....	\$ (0.49)	\$ (0.36)

The following securities, which could potentially dilute basic earnings per share in the future, were not included in the computation of diluted loss per share because they would have been antidilutive for the periods presented (in thousands):

	Three Months Ended March 31,	
	2009	2008
Unvested restricted stock	128	126
Series A convertible preferred shares	9,985	9,985

Series A preferred dividends that would be excluded from net loss applicable to FelCor common stockholders, if these Series A preferred shares were dilutive, were \$6.3 million for the three months ended both March 31, 2009 and 2008.

FELCOR LODGING TRUST INCORPORATED

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

8. Suspension of Dividends

We suspended our common dividends in December 2008 and our preferred dividends in March 2009. Although dividends are not paid unless declared by our Board of Directors, unpaid preferred dividends continue to accrue, and accrued and current preferred dividends must be paid in full prior to payment of any common dividends. Our Board of Directors will determine whether to declare future dividends based upon various factors, including operating results, economic conditions, other operating trends, our financial condition and capital requirements, as well as minimum REIT distribution requirements.

9. Application of New Accounting Standards

Effective January 1, 2009, we adopted the provisions of SFAS 160, "Noncontrolling Interests in Consolidated Financial Statements," which establishes and expands accounting and reporting standards for minority interests (which are recharacterized as noncontrolling interests) in a subsidiary and the deconsolidation of a subsidiary. We have also adopted the recent revisions to EITF Topic D-98, "Classification and Measurement of Redeemable Securities," which became effective upon our adoption of SFAS 160. As a result of our adoption of these standards, amounts previously reported as minority interests in other partnerships on our balance sheets are now presented as noncontrolling interests in other partnerships within equity. There has been no change in the measurement of this line item from amounts previously reported. Minority interests in FelCor LP have also been recharacterized as noncontrolling interests, but because of the redemption feature of these units, have been included in the mezzanine section (between liabilities and equity) on the accompanying consolidated balance sheets. These units are redeemable at the option of the holders for a like number of shares of our common stock or, at our option, the cash equivalent thereof. Based on the requirements of D-98, the measurement of noncontrolling interests in FelCor LP is now presented at the fair value of the units as of the balance sheet date (based on our stock price as of the balance sheet times the number of outstanding units). Previously these interests were measured based on the noncontrolling interests in FelCor LP's pro rata share of total common interests, in accordance with EITF 95-7. The revised presentation and measurement required by SFAS 160 and D-98 has been adopted retrospectively.

A reconciliation between the amounts previously reported and their current measurements at December 31, 2007 and 2008 are shown below (in thousands):

	Redeemable noncontrolling interests	Additional paid-in capital	Accumulated other comprehensive income
Balances at December 31, 2007, as previously reported	\$ 11,398	\$ 2,062,893	\$ 27,450
Allocation to noncontrolling interests in FelCor LP	9,711	(9,132)	(579)
Adjusted balance as of December 31, 2007	\$ 21,109	\$ 2,053,761	\$ 26,871
	Redeemable noncontrolling interests	Additional paid-in capital	Accumulated other comprehensive income
Balances at December 31, 2008, as previously reported	\$ 1,458	\$ 2,044,498	\$ 15,418
Allocation to noncontrolling interests in FelCor LP	(913)	984	(71)
Adjusted balance as of December 31, 2008	\$ 545	\$ 2,045,482	\$ 15,347

FELCOR LODGING TRUST INCORPORATED

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

9. Application of New Accounting Standards – (continued)

The changes in redeemable noncontrolling interests for the year ended December 31, 2008 and the three months ended March 31, 2009 are shown below (in thousands):

	Year Ended December 31, 2008	Three Months Ended March 31, 2009
Balance at beginning of period	\$ 21,109	\$ 545
Foreign exchange translation	(508)	(8)
Redemption value allocation.....	(16,064)	7
Distributions	(1,559)	-
Net loss	(2,433)	(142)
Balance at end of period	<u>\$ 545</u>	<u>\$ 402</u>

Also effective with the adoption SFAS 160, previously reported minority interests have been recharacterized on the accompanying statement of operations to noncontrolling interests and placed below net loss before arriving at net loss attributable to FelCor.

In April 2009, the FASB issued FASB Staff Position 107-1 and APB 28-1 which requires disclosures about fair value of financial instruments for interim reporting periods of publicly traded companies as well as in annual financial statements. We plan to adopt this FSP in the second quarter of 2009 and do not believe it will have a material effect on our financial position and results of operations.

In April 2009, the FASB issued FASB Staff Position 157-4 which provides guidance on estimating fair values when the volume and level of activity for the asset and liability have significantly decreased. It also includes guidance on identifying circumstances that indicate a transaction is not orderly. If the weight of evidence indicates that the transaction is not orderly, a reporting entity shall place little, if any, weight on that transaction price when estimating fair value. We plan to adopt this FSP in the second quarter of 2009 and believe it could have a material effect on our financial position to the extent we are estimating fair values to be recorded in the financial statements for assets or liabilities in markets where the volume and activity for the asset or liability has significantly decreased.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

General

In the first quarter of 2009, the lodging industry continued to see nationwide decreases in revenue per available room, or RevPAR (U.S. average RevPAR decreased 17.7% in the first quarter of 2009). However, in spite of reduced RevPAR, our hotels have generally been able to continue increasing their market share, which we believe is largely attributable to our recently completed \$450 million hotel renovation program.

As lodging demand continues to slow in 2009, we are working closely with our brand-managers to cut operating costs in the lower RevPAR environment. Many of our hotels have been able to reduce labor costs permanently, and all of our hotels have trimmed non-critical functions. These cost reductions have enabled us to minimize EBITDA margin erosion.

We entered 2009 in the midst of a recession. Our hotels are focused on maintaining market share, protecting average daily rate, or ADR, and preserving EBITDA margins, while we are focused on managing our balance sheet, including maturing debt and compliance with debt covenants. We started 2009 with \$132 million of non-recourse mortgage debt, in the aggregate, that would mature in 2009. In March 2009, we refinanced \$116 million of our 2009 maturities with a new loan that matures in 2014. We have \$15 million of non-recourse mortgage debt maturing in 2009 (two loans, each secured by different hotels) that we are seeking to extend.

Our line of credit contains certain restrictive financial covenants; we were in compliance with these at the date of this filing. Our compliance with these covenants in future periods will depend substantially on the financial results of our hotels. If current financial market conditions persist and our business continues to deteriorate, we may fail to comply with one or more of these covenants in 2009.

We have agreed in principle on the material terms with the lead lender of a new \$200 million term loan, which would be secured by first mortgages on nine currently unencumbered hotels and, assuming all extension options are exercised, will not mature until 2013. This loan would not be subject to any corporate financial covenants and would only be recourse to the borrower, a to-be-formed wholly-owned subsidiary. While we believe that we will successfully close our new secured term loan, as discussed above, we have several other alternatives available to ensure continued compliance with our financial covenants or repay our line of credit, including identifying other sources of debt or equity financing, selling unencumbered hotels and/or implementing additional cost cutting measures. Of course, we can provide no assurance that we will be able to close our new secured term loan, identify additional sources of debt or equity financing or sell hotels on terms that are favorable or otherwise acceptable to us.

We have two non-recourse mortgage loans aggregating \$277 million secured by 14 hotels that will mature in May 2010. We are in preliminary discussions with potential lenders to refinance all of our debt that will mature in 2010 and 2011.

On April 1, 2009, we opened our San Francisco Marriott Union Square Hotel, which had been operating as Hotel 480 during renovations that began in 2007. Renovations at this hotel were comprehensive and included guest rooms, guest baths, guest corridors, meeting space, food and beverage outlets, public areas and building exterior. Following the Marriott conversion, April RevPAR increased more than 40% at this hotel, compared to the prior year.

We suspended our common dividends in December 2008 and our preferred dividends in March 2009. Although dividends are not paid unless declared by our Board of Directors, unpaid preferred dividends continue to accrue, and accrued and current preferred dividends must be paid in full prior to payment of any common dividends. Our Board of Directors will determine whether to declare future dividends based upon various factors, including operating results, economic conditions, other operating trends, our financial condition and capital requirements, as well as minimum REIT distribution requirements.

Financial Comparison (in thousands of dollars, except RevPAR and Hotel EBITDA margin)

	Three Months Ended		% Change
	March 31,		
	2009	2008	2009-2008
RevPAR	\$ 81.60	\$ 101.55	(19.6)%
Hotel EBITDA ^(a)	\$ 56,705	\$ 82,165	(31.0)%
Hotel EBITDA margin ^(a)	24.2%	28.2%	(14.2)%
Loss from continuing operations attributable to FelCor ^(b)	\$(21,064)	\$ (12,460)	(69.1)%
FFO ^{(a)(c)}	\$ 10,188	\$ 14,689	(30.6)%
EBITDA ^{(a)(d)}	\$ 43,752	\$ 53,777	(18.6)%

(a) A discussion of the use, limitations and importance of these non-GAAP financial measures and detailed reconciliations to the most comparable GAAP measure are found elsewhere in Management's Discussion and Analysis of Financial Condition and Results of Operations.

(b) Included in loss from continuing operations attributable to FelCor are the following amounts (in thousands):

	Three Months Ended	
	March 31,	
	2009	2008
Impairment loss.....	\$ (1,368)	\$ (17,131)
Impairment loss on unconsolidated hotels	(2,068)	-
Conversion costs	(38)	(259)
Severance costs	(145)	-

(c) FFO has not been adjusted for the following amounts included in net loss attributable to FelCor (in thousands):

	Three Months Ended	
	March 31,	
	2009	2008
Impairment loss	\$ (1,368)	\$ (17,131)
Impairment loss on unconsolidated hotels.....	(2,068)	-
Conversion costs.....	(38)	(259)
Severance costs, net of noncontrolling interests.....	(135)	-

(d) EBITDA has not been adjusted for the following amounts included in net loss attributable to FelCor (in thousands):

	Three Months Ended	
	March 31,	
	2009	2008
Impairment loss.....	\$ (1,368)	\$ (17,131)
Impairment loss on unconsolidated hotels	(2,068)	-
Conversion costs	(38)	(259)
Severance costs, net of noncontrolling interests	(135)	-

Results of Operations

Comparison of the Three Months Ended March 31, 2009 and 2008

For the three months ended March 31, 2009, we recorded a \$30.7 million net loss applicable to common stockholders, or \$0.49 per share, compared to \$22.2 million net loss applicable to common stockholders, or \$0.36 per share, for the same period in 2008. The current year loss is attributable primarily to the 19.7% decrease in revenue compared to the same period in 2008. We were able to limit our margin loss in the first quarter of 2009 compared to the first quarter of 2008, primarily by reducing hotel labor costs by \$10.5 million and reducing other costs associated with non-critical functions. Hotel expenses decreased 15.3% compared to first quarter 2008. The current year loss included impairment charges of \$3.5 million (\$1.4 million related to a consolidated hotel and \$2.1 million related to an unconsolidated entity), while the prior year loss included a \$17.1 million impairment charge on two consolidated hotels.

In the first quarter of 2009, total revenue from continuing operations was \$234.3 million, a 19.7% decrease compared to the same period in 2008. The decrease in revenue is attributed principally to a 19.6% decrease in RevPAR, which was driven by an 11.6% decrease in occupancy and a 9.1% decrease in ADR.

In the first quarter of 2009, hotel departmental expenses decreased \$15.5 million (16.0%) compared to the same period in 2008. As a percentage of total revenue, hotel departmental expenses increased from 33.3% to 34.8% compared to the same period in 2008. The \$15.5 million expense reduction reflects: (i) an 11.6% decrease in occupancy; (ii) a \$7.7 million decrease in labor costs, which includes permanent reductions related to a decrease in hotel departmental employees; (iii) a decrease in non-critical room expenses, such as guest transportation, in-room amenities, bath linen quantities, and newspaper service; and (iv) menu modifications in food and beverage.

In the first quarter of 2009, other property operating costs decreased \$9.8 million (12.7%) compared to the same period in 2008. As a percentage of total revenue, other property operating costs increased from 26.4% to 28.7% compared to the same period in 2008. The \$9.8 million reduction includes: (i) a \$2.8 million decrease in labor costs; (ii) a \$2.8 million decrease in marketing assessments, credit card commissions and frequent guest expense (all of which reflect the decrease in revenue); (iii) a \$1.2 million decrease in repairs and maintenance, partially attributable to our recently completed renovation program; and (iv) reductions in other non-critical expenses.

In the first quarter of 2009, management and franchise fees decreased \$4.4 million compared to the same period in 2008. As a percent of total revenue, franchise fees and base management fees were essentially unchanged from 2008 to 2009 since both fees are based on a percentage of revenue. Incentive fees decreased from 0.9% to 0.2% of total revenue because these fees are based on the profitability of the hotel operations, which significantly decreased from 2008 to 2009.

In the first quarter of 2009, taxes, insurance and lease expense decreased \$4.3 million compared to the same period in 2008. This decrease was primarily related to a \$2.1 million decrease in percentage rent, which is attributable to the decreased revenue at our consolidated hotel lessees, and a \$1.7 million decrease in real estate and other taxes, which related to the successful resolution of estimated tax accruals related to prior years. Taxes, insurance and lease expense increased as a percentage of total revenue from 10.0% to 10.7% compared to the same period in 2008.

Corporate expenses decreased \$700,000 in the first quarter of 2009 compared to the same period in 2008, principally due to general cost reduction efforts in our corporate office.

In the first quarter of 2009, depreciation and amortization expense increased \$3.6 million, compared to the same period in 2008, which reflects \$142.9 million of consolidated hotel capital expenditures incurred in 2008.

During 2008, we identified eight hotels as candidates to be sold (three are no longer identified as candidates for sale and five hotels remain sale candidates). We recorded an impairment charge of \$1.4 million for one of these hotels in the first quarter of 2009 and \$17.1 million for two of these hotels in the first quarter of 2008 under the provisions of SFAS 144.

Net interest expense included in continuing operations for the first quarter decreased \$4.7 million compared to the same period in 2008. This decrease reflects declining interest rates for our floating-rate debt.

Equity in loss from unconsolidated entities increased \$2.8 million in the first quarter of 2009 from the first quarter of 2008. This is primarily attributed to \$2.1 million impairment charge on one of our unconsolidated investments.

Non-GAAP Financial Measures

We refer in this report to certain “non-GAAP financial measures.” These measures, including FFO, Hotel EBITDA and Hotel EBITDA margin, are measures of our financial performance that are not calculated and presented in accordance with GAAP. The following tables reconcile each of these non-GAAP measures to the most comparable GAAP financial measure. Immediately following the reconciliations, we include a discussion of why we believe these measures are useful supplemental measures of our performance and the limitations of such measures.

The following tables detail our computation of FFO and EBITDA (in thousands, except per share data):

Reconciliation of Net Loss Attributable to FelCor to FFO

	Three Months Ended March 31,					
	2009			2008		
	Dollars	Shares	Per Share Amount	Dollars	Shares	Per Share Amount
Net loss attributable to FelCor	\$ (21,064)			\$ (12,473)		
Preferred dividends ^(a)	(9,678)			(9,678)		
Net loss attributable to FelCor common stockholders	(30,742)	62,989	\$ (0.49)	(22,151)	61,714	\$ (0.36)
Depreciation and amortization	37,385	-	0.59	33,768	-	0.55
Depreciation, unconsolidated entities	3,687	-	0.06	3,549	-	0.06
Noncontrolling interests in FelCor LP	(142)	296	-	(477)	1,354	(0.02)
Conversion of options and unvested restricted stock	-	128	-	-	126	-
FFO.....	\$ 10,188	63,413	\$ 0.16	\$ 14,689	63,194	\$ 0.23

- (a) We suspended our preferred dividends in March 2009 and unpaid preferred dividends continue to accrue until paid.

FFO has not been adjusted for the following amounts included in net loss applicable to FelCor common stockholders (in thousands):

	Three Months Ended March 31,	
	2009	2008
Impairment loss.....	\$ (1,368)	\$ (17,131)
Impairment loss on unconsolidated hotels	(2,068)	-
Conversion costs	(38)	(259)
Severance costs, net of noncontrolling interests	(135)	-

Reconciliation of Net Loss Attributable to FelCor to EBITDA
(in thousands)

	Three Months Ended March 31,	
	2009	2008
Net loss attributable to FelCor	\$ (21,064)	\$ (12,473)
Depreciation and amortization.....	37,385	33,768
Depreciation, unconsolidated entities.....	3,687	3,549
Interest expense.....	21,469	26,549
Interest expense, unconsolidated entities.....	1,019	1,596
Amortization of stock compensation.....	1,398	1,265
Noncontrolling interests in FelCor LP.....	(142)	(477)
EBITDA	\$ 43,752	\$ 53,777

EBITDA has not been adjusted for the following amounts included in net loss attributable to FelCor (in thousands):

	Three Months Ended March 31,	
	2009	2008
Impairment loss.....	\$ (1,368)	\$ (17,131)
Impairment loss on unconsolidated hotels.....	(2,068)	-
Conversion costs.....	(38)	(259)
Severance costs, net of noncontrolling interests.....	(135)	-

The following tables detail our computation of Hotel EBITDA, Hotel EBITDA margin, hotel operating expenses and the reconciliation of hotel operating expenses to total operating expenses with respect to our hotels included in continuing operations at the dates presented.

Hotel EBITDA and Hotel EBITDA Margin
(dollars in thousands)

	Three Months Ended March 31,	
	2009	2008
Total revenues.....	\$ 234,288	\$ 291,875
Other revenue.....	(286)	(328)
Hotel operating revenue.....	234,002	291,547
Hotel operating expenses.....	(177,297)	(209,382)
Hotel EBITDA.....	\$ 56,705	\$ 82,165
Hotel EBITDA margin ^(a)	24.2%	28.2%

(a) Hotel EBITDA as a percentage of hotel operating revenue.

Reconciliation of Total Operating Expenses to Hotel Operating Expenses
(dollars in thousands)

	Three Months Ended	
	March 31,	
	2009	2008
Total operating expenses	\$ 230,994	\$ 278,116
Unconsolidated taxes, insurance and lease expense	1,934	2,122
Consolidated hotel lease expense.....	(10,060)	(12,197)
Corporate expenses	(6,122)	(6,827)
Depreciation and amortization.....	(37,385)	(33,768)
Impairment loss.....	(1,368)	(17,131)
Other expenses	(696)	(933)
Hotel operating expenses	\$ 177,297	\$ 209,382

The following tables reconcile net loss attributable to FelCor to Hotel EBITDA and the ratio of operating income to total revenue to Hotel EBITDA margin.

Reconciliation of Net Loss Attributable to FelCor to Hotel EBITDA
(in thousands)

	Three Months Ended	
	March 31,	
	2009	2008
Net loss attributable to FelCor	\$ (21,064)	\$ (12,473)
Discontinued operations.....	-	13
Equity in loss from unconsolidated entities	3,424	622
Net income (loss) attributable to noncontrolling interests in other partnerships	(216)	71
Net loss attributable to redeemable noncontrolling interests in FelCor LP	(142)	(477)
Consolidated hotel lease expense.....	10,060	12,197
Unconsolidated taxes, insurance and lease expense	(1,934)	(2,122)
Interest expense, net.....	21,292	26,003
Corporate expenses	6,122	6,827
Depreciation and amortization	37,385	33,768
Impairment loss.....	1,368	17,131
Other expenses	696	933
Other revenue.....	(286)	(328)
Hotel EBITDA	\$ 56,705	\$ 82,165

Reconciliation of Ratio of Operating Income to Total Revenues to Hotel EBITDA Margin

	Three Months Ended March 31,	
	2009	2008
Ratio of operating income to total revenues	1.4 %	4.7 %
Other revenue	(0.1)	(0.1)
Unconsolidated taxes, insurance and lease expense	(0.8)	(0.7)
Consolidated hotel lease expense	4.3	4.2
Other expenses	0.3	0.3
Corporate expenses	2.6	2.3
Depreciation and amortization	15.9	11.6
Impairment loss	0.6	5.9
Hotel EBITDA margin	24.2 %	28.2 %

Substantially all of our non-current assets consist of real estate. Historical cost accounting for real estate assets implicitly assumes that the value of real estate assets diminishes predictably over time. Since real estate values instead have historically risen or fallen with market conditions, most industry investors consider supplemental measures of performance, which are not measures of operating performance under GAAP, to be helpful in evaluating a real estate company's operations. These supplemental measures, including FFO, EBITDA, Hotel EBITDA and Hotel EBITDA margin, are not measures of operating performance under GAAP. However, we consider these non-GAAP measures to be supplemental measures of a REIT's performance and should be considered along with, but not as an alternative to, net income as a measure of our operating performance.

FFO and EBITDA

The White Paper on Funds From Operations approved by the Board of Governors of the National Association of Real Estate Investment Trusts, or NAREIT, defines FFO as net income or loss attributable to FelCor (computed in accordance with GAAP), excluding gains or losses from sales of property, plus depreciation and amortization, and after adjustments for unconsolidated partnerships and joint ventures. Adjustments for unconsolidated partnerships and joint ventures are calculated to reflect FFO on the same basis. We compute FFO in accordance with standards established by NAREIT. This may not be comparable to FFO reported by other REITs that do not define the term in accordance with the current NAREIT definition or that interpret the current NAREIT definition differently than we do.

EBITDA is a commonly used measure of performance in many industries. We define EBITDA as net income or loss attributable to FelCor (computed in accordance with GAAP) plus interest expenses, income taxes, depreciation and amortization, and after adjustments for unconsolidated partnerships and joint ventures. Adjustments for unconsolidated partnerships and joint ventures are calculated to reflect EBITDA on the same basis.

Hotel EBITDA and Hotel EBITDA Margin

Hotel EBITDA and Hotel EBITDA margin are commonly used measures of performance in the hotel industry and give investors a more complete understanding of the operating results over which our individual hotels and operating managers have direct control. We believe that Hotel EBITDA and Hotel EBITDA margin are useful to investors by providing greater transparency with respect to two significant measures used by us in our financial and operational decision-making. Additionally, using these measures facilitates comparisons with other hotel REITs and hotel owners. We present Hotel EBITDA and Hotel EBITDA margin by eliminating from continuing operations all revenues and expenses not directly associated with hotel operations including corporate-level expenses, depreciation and amortization and expenses related to our capital structure. We eliminate corporate-level costs and expenses because we believe property-level results provide investors with supplemental information into the ongoing operational performance of our hotels and the effectiveness of management on a property-level basis. We eliminate depreciation and amortization because, even though depreciation and amortization are property-level expenses, we do not believe that these non-cash expenses, which are based on historical cost accounting for real estate assets and implicitly assume that the value of real estate assets diminishes predictably over time, accurately reflect an adjustment in the value of our assets. We also eliminate consolidated percentage rent paid to

unconsolidated entities, which is effectively eliminated by noncontrolling interests and equity in income from unconsolidated subsidiaries, and include the cost of unconsolidated taxes, insurance and lease expense, to reflect the entire operating costs applicable to our hotels.

Limitations of Non-GAAP Measures

Our management and Board of Directors use FFO, EBITDA, Hotel EBITDA and Hotel EBITDA margin to evaluate the performance of our hotels and to facilitate comparisons between us and lodging REITs, hotel owners who are not REITs and other capital intensive companies. We use Hotel EBITDA and Hotel EBITDA margin in evaluating hotel-level performance and the operating efficiency of our hotel managers.

The use of these non-GAAP financial measures has certain limitations. FFO, EBITDA, Hotel EBITDA and Hotel EBITDA margin, as presented by us, may not be comparable to FFO, EBITDA, Hotel EBITDA and Hotel EBITDA margin as calculated by other real estate companies. These measures do not reflect certain expenses that we incurred and will incur, such as depreciation and amortization, interest and capital expenditures. Management compensates for these limitations by separately considering the impact of these excluded items to the extent they are material to operating decisions or assessments of our operating performance. Our reconciliations to the most comparable GAAP financial measures, and our consolidated statements of operations and cash flows, include interest expense, capital expenditures, and other excluded items, all of which should be considered when evaluating our performance, as well as the usefulness of our non-GAAP financial measures.

These non-GAAP financial measures are used in addition to and in conjunction with results presented in accordance with GAAP. They should not be considered as alternatives to operating profit, cash flow from operations, or any other operating performance measure prescribed by GAAP. Neither should FFO, FFO per share or EBITDA be considered as measures of our liquidity or indicative of funds available for our cash needs, including our ability to make cash distributions or service our debt. FFO per share should not be used as a measure of amounts that accrue directly to the benefit of stockholders. FFO, EBITDA, Hotel EBITDA and Hotel EBITDA margin reflect additional ways of viewing our operations that we believe, when viewed with our GAAP results and the reconciliations to the corresponding GAAP financial measures, provide a more complete understanding of factors and trends affecting our business than could be obtained absent this disclosure. Management strongly encourages investors to review our financial information in its entirety and not to rely on a single financial measure.

Pro Rata Share of Rooms Owned

The following table sets forth, as of March 31, 2009, the pro rata share of hotel rooms owned by us after giving consideration to the portion of rooms owned by our partners in our consolidated and unconsolidated joint ventures:

	Hotels	Room Count at March 31, 2009
Consolidated hotels in continuing operations	85	25,006
Unconsolidated hotel operations	3	456
Total hotels	88	25,462
50% joint ventures	16	(1,937)
60% joint ventures	1	(214)
75% joint ventures	1	(55)
90% joint ventures	3	(68)
97% joint venture	1	(10)
Total rooms owned by joint venture partners		(2,284)
Pro rata share of rooms owned		23,178

Hotel Portfolio Composition

The following tables set forth, as of March 31, 2009, for 85 Consolidated Hotels distribution by brand, by our top markets and by type of location.

Brand	Hotels	Rooms	% of Total Rooms	% of 2008 Hotel EBITDA ^(a)
Embassy Suites Hotels	47	12,132	49	55
Holiday Inn	17	6,306	25	19
Sheraton and Westin	9	3,217	13	12
Doubletree	7	1,471	6	7
Renaissance and Marriott	3	1,321	5	5
Hilton	2	559	2	2

Top Markets

South Florida	5	1,439	6	7
San Francisco area	6	2,138	8	6
Atlanta	5	1,462	6	6
Los Angeles area	4	899	4	6
Orlando	5	1,690	7	5
Dallas	4	1,333	5	4
Philadelphia	2	729	3	4
Northern New Jersey	3	756	3	4
Minneapolis	3	736	3	4
San Diego	1	600	2	4
Phoenix	3	798	3	3
San Antonio	3	874	4	3
Chicago	3	795	3	3
Boston	2	532	2	3
Washington, D.C.	1	443	2	2

Location

Suburban	35	8,781	35	34
Urban	20	6,358	25	26
Airport	18	5,788	24	24
Resort	12	4,079	16	16

- (a) Hotel EBITDA is a non-GAAP financial measure. A detailed reconciliation and further discussion of Hotel EBITDA is contained in the “Non-GAAP Financial Measures” section of Management’s Discussion and Analysis of Financial Condition and Results of Operations in Item 2 of this Quarterly Report on Form 10-Q.

Hotel Operating Statistics

The following tables set forth occupancy, ADR and RevPAR for the three months ended March 31, 2009 and 2008, and the percentage changes thereof between the periods presented, for hotels included in our consolidated operations.

Operating Statistics by Brand

	Occupancy (%)		
	Three Months Ended		
	March 31,		
	2009	2008	% Variance
Embassy Suites Hotels	66.5	73.0	(8.9)
Holiday Inn	61.7	70.0	(11.8)
Sheraton and Westin	55.0	66.1	(16.8)
Doubletree	63.6	75.6	(15.9)
Renaissance and Marriott	56.3	70.7	(20.3)
Hilton	47.3	52.3	(9.6)
Total hotels	62.7	70.9	(11.6)

	ADR (\$)		
	Three Months Ended		
	March 31,		
	2009	2008	% Variance
Embassy Suites Hotels	138.64	152.21	(8.9)
Holiday Inn	105.16	117.89	(10.8)
Sheraton and Westin	118.11	130.15	(9.2)
Doubletree	139.17	153.99	(9.6)
Renaissance and Marriott	201.68	210.93	(4.4)
Hilton	97.59	106.35	(8.2)
Total hotels	130.11	143.20	(9.1)

	RevPAR (\$)		
	Three Months Ended		
	March 31,		
	2009	2008	% Variance
Embassy Suites Hotels	92.22	111.09	(17.0)
Holiday Inn	64.93	82.50	(21.3)
Sheraton and Westin	65.01	86.06	(24.5)
Doubletree	88.47	116.42	(24.0)
Renaissance and Marriott	113.55	149.06	(23.8)
Hilton	46.13	55.62	(17.1)
Total hotels	81.60	101.55	(19.6)

Operating Statistics for Our Top Markets

	Occupancy (%)		
	Three Months Ended March 31,		
	2009	2008	%Variance
South Florida	79.3	87.1	(8.9)
San Francisco area	55.9	71.0	(21.2)
Atlanta	65.6	76.3	(14.0)
Los Angeles area	68.6	73.6	(6.7)
Orlando	68.2	81.9	(16.8)
Dallas	59.4	69.9	(15.0)
Philadelphia	49.4	62.5	(20.9)
Northern New Jersey	59.6	66.4	(10.2)
Minneapolis	60.9	67.0	(9.1)
San Diego	64.0	80.5	(20.5)
Phoenix	64.1	75.9	(15.5)
San Antonio	69.6	77.1	(9.8)
Chicago	52.5	65.0	(19.3)
Boston	70.6	69.0	2.3
Washington, D.C.	45.1	43.9	2.7

	ADR (\$)		
	Three Months Ended March 31,		
	2009	2008	%Variance
South Florida	170.57	199.14	(14.3)
San Francisco area	120.64	136.22	(11.4)
Atlanta	111.22	127.06	(12.5)
Los Angeles area	138.48	156.95	(11.8)
Orlando	112.89	124.53	(9.3)
Dallas	126.94	130.17	(2.5)
Philadelphia	129.62	136.34	(4.9)
Northern New Jersey	151.68	161.98	(6.4)
Minneapolis	131.14	145.02	(9.6)
San Diego	132.31	152.80	(13.4)
Phoenix	157.30	186.19	(15.5)
San Antonio	105.65	113.77	(7.1)
Chicago	112.26	120.74	(7.0)
Boston	126.00	136.39	(7.6)
Washington, D.C.	154.72	162.65	(4.9)

	RevPAR (\$)		
	Three Months Ended March 31,		
	2009	2008	%Variance
South Florida	135.25	173.37	(22.0)
San Francisco area	67.43	96.67	(30.2)
Atlanta	72.99	96.90	(24.7)
Los Angeles area	95.04	115.45	(17.7)
Orlando	76.97	102.05	(24.6)
Dallas	75.44	90.96	(17.1)
Philadelphia	64.05	85.16	(24.8)
Northern New Jersey	90.37	107.47	(15.9)
Minneapolis	79.80	97.14	(17.8)
San Diego	84.72	123.01	(31.1)
Phoenix	100.90	141.34	(28.6)
San Antonio	73.48	87.75	(16.3)
Chicago	58.89	78.53	(25.0)
Boston	88.95	94.10	(5.5)
Washington, D.C.	69.80	71.44	(2.3)

Hotel Portfolio Listing

The following table provides the name, location, number of rooms, our ownership percentage and brand names of each of our hotels.

	<u>State</u>	<u>Rooms</u>	<u>% Owned^(a)</u>	<u>Brand</u>
<u>Consolidated Hotels</u>				
Birmingham ^(b)	AL	242		Embassy Suites Hotel
Phoenix – Biltmore ^(b)	AZ	232		Embassy Suites Hotel
Phoenix – Crescent ^(b)	AZ	342		Sheraton
Phoenix – Tempe ^(b)	AZ	224		Embassy Suites Hotel
Anaheim – North ^(b)	CA	222		Embassy Suites Hotel
Dana Point – Doheny Beach	CA	196		Doubletree Guest Suites
Indian Wells – Esmeralda Resort & Spa ^(b)	CA	560		Renaissance Resort
Los Angeles – International Airport –South	CA	349	97%	Embassy Suites Hotel
Milpitas – Silicon Valley ^(b)	CA	266		Embassy Suites Hotel
Napa Valley ^(b)	CA	205		Embassy Suites Hotel
Oxnard – Mandalay Beach – Hotel & Resort	CA	248		Embassy Suites Hotel
San Diego – On the Bay	CA	600		Holiday Inn
San Francisco – Airport/Burlingame	CA	340		Embassy Suites Hotel
San Francisco – Airport/South San Francisco ^(b)	CA	312		Embassy Suites Hotel
San Francisco – Fisherman’s Wharf	CA	585		Holiday Inn
San Francisco Union Square	CA	400		Marriott ^(c)
San Rafael – Marin County ^(b)	CA	235	50%	Embassy Suites Hotel
Santa Barbara – Goleta	CA	160		Holiday Inn
Santa Monica Beach – at the Pier	CA	132		Holiday Inn
Wilmington ^(b)	DE	244	90%	Doubletree
Boca Raton ^(b)	FL	263		Embassy Suites Hotel
Cocoa Beach – Oceanfront	FL	500		Holiday Inn
Deerfield Beach –Resort & Spa ^(b)	FL	244		Embassy Suites Hotel
Ft. Lauderdale – 17th Street ^(b)	FL	361		Embassy Suites Hotel
Ft. Lauderdale – Cypress Creek ^(b)	FL	253		Sheraton Suites
Jacksonville – Baymeadows ^(b)	FL	277		Embassy Suites Hotel
Miami – International Airport ^(b)	FL	318		Embassy Suites Hotel
Orlando – International Airport ^(b)	FL	288		Holiday Inn
Orlando – International Drive Resort	FL	652		Holiday Inn
Orlando – International Drive South/Convention ^(b)	FL	244		Embassy Suites Hotel
Orlando– North	FL	277		Embassy Suites Hotel
Orlando – Walt Disney World Resort	FL	229		Doubletree Guest Suites
St. Petersburg – Vinoy Resort & Golf Club ^(b)	FL	361		Renaissance Resort
Tampa – Tampa Bay ^(b)	FL	203		Doubletree Guest Suites
Atlanta – Airport ^(b)	GA	232		Embassy Suites Hotel
Atlanta – Buckhead ^(b)	GA	316		Embassy Suites Hotel
Atlanta – Galleria ^(b)	GA	278		Sheraton Suites
Atlanta – Gateway – Atlanta Airport	GA	395		Sheraton
Atlanta – Perimeter Center ^(b)	GA	241	50%	Embassy Suites Hotel
Chicago – Lombard/Oak Brook ^(b)	IL	262	50%	Embassy Suites Hotel
Chicago – North Shore/Deerfield (Northbrook) ^(b)	IL	237		Embassy Suites Hotel
Chicago – Gateway – O’Hare ^(b)	IL	296		Sheraton Suites
Indianapolis – North ^(b)	IN	221	75%	Embassy Suites Hotel
Kansas City – Overland Park ^(b)	KS	199	50%	Embassy Suites Hotel
Lexington – Lexington Green ^(b)	KY	174		Hilton Suites
Baton Rouge ^(b)	LA	223		Embassy Suites Hotel

Hotel Portfolio Listing (continued)

	<u>State</u>	<u>Rooms</u>	<u>% Owned^(a)</u>	<u>Brand</u>
New Orleans – Convention Center ^(b)	LA	370		Embassy Suites Hotel
New Orleans – French Quarter	LA	374		Holiday Inn
Boston – at Beacon Hill	MA	303		Holiday Inn
Boston – Marlborough ^(b)	MA	229		Embassy Suites Hotel
Baltimore – at BWI Airport ^(b)	MD	251	90%	Embassy Suites Hotel
Bloomington ^(b)	MN	218		Embassy Suites Hotel
Minneapolis – Airport ^(b)	MN	310		Embassy Suites Hotel
St. Paul – Downtown ^(b)	MN	208		Embassy Suites Hotel
Kansas City – Plaza	MO	266	50%	Embassy Suites Hotel
Charlotte ^(b)	NC	274	50%	Embassy Suites Hotel
Charlotte – SouthPark	NC	208		Doubletree Guest Suites
Raleigh/Durham ^(b)	NC	203		Doubletree Guest Suites
Raleigh – Crabtree ^(b)	NC	225	50%	Embassy Suites Hotel
Parsippany ^(b)	NJ	274	50%	Embassy Suites Hotel
Piscataway – Somerset ^(b)	NJ	221		Embassy Suites Hotel
Secaucus – Meadowlands ^(b)	NJ	261	50%	Embassy Suites Hotel
Philadelphia – Historic District	PA	364		Holiday Inn
Philadelphia – Society Hill ^(b)	PA	365		Sheraton
Pittsburgh – at University Center (Oakland)	PA	251		Holiday Inn
Charleston – Mills House ^(b)	SC	214		Holiday Inn
Myrtle Beach – Oceanfront Resort	SC	255		Embassy Suites Hotel
Myrtle Beach Resort	SC	385		Hilton
Nashville – Airport – Opryland Area	TN	296		Embassy Suites Hotel
Nashville – Opryland – Airport (Briley Parkway)	TN	383		Holiday Inn
Austin ^(b)	TX	188	90%	Doubletree Guest Suites
Austin – Central ^(b)	TX	260	50%	Embassy Suites Hotel
Corpus Christi ^(b)	TX	150		Embassy Suites Hotel
Dallas – DFW International Airport South ^(b)	TX	305		Embassy Suites Hotel
Dallas – Love Field ^(b)	TX	248		Embassy Suites Hotel
Dallas – Market Center	TX	244		Embassy Suites Hotel
Dallas – Park Central	TX	536	60%	Westin
Houston – Medical Center	TX	287		Holiday Inn
San Antonio – International Airport ^(b)	TX	261	50%	Embassy Suites Hotel
San Antonio – International Airport ^(b)	TX	397		Holiday Inn
San Antonio – NW I-10 ^(b)	TX	216	50%	Embassy Suites Hotel
Burlington Hotel & Conference Center ^(b)	VT	309		Sheraton
Vienna – Premiere at Tysons Corner ^(b)	VA	443	50%	Sheraton
<i>Canada</i>				
Toronto – Airport	Ontario	446		Holiday Inn
Toronto – Yorkdale	Ontario	370		Holiday Inn
<u>Unconsolidated Operations</u>				
Salina ^{(b)(d)}	KS	192	50%	Holiday Inn
Salina – I-70 ^(b)	KS	93	50%	Holiday Inn Express
New Orleans – French Quarter – Chateau LeMoynes ^(b)	LA	171	50%	Holiday Inn

(a) We own 100% of the real estate interests unless otherwise noted.

(b) This hotel was encumbered by mortgage debt or a capital lease obligation at March 31, 2009.

(c) On April 1, 2009, San Francisco Union Square was rebranded as a Marriott.

(d) This hotel was sold April 23, 2009.

Liquidity and Capital Resources

Hotel operations provide most of the cash needed to meet our cash requirements, including distributions to stockholders and repayments of indebtedness. For the three months ended March 31, 2009, net cash flow provided by operating activities, consisting primarily of hotel operations, was \$24 million. At March 31, 2009, we had \$53 million of cash on hand, including approximately \$38 million held under management agreements to meet minimum working capital requirements.

We suspended our common dividends in December 2008 and our preferred dividends in March 2009. Although dividends are not paid unless declared by our Board of Directors, unpaid preferred dividends continue to accrue, and accrued and current preferred dividends must be paid in full prior to payment of any common dividends. Our Board of Directors will determine whether to declare future dividends based upon various factors, including operating results, economic conditions, other operating trends, our financial condition and capital requirements, as well as minimum REIT distribution requirements.

We have agreed in principle on the material terms with the lead lender of a new \$200 million term loan, which would be secured by first mortgages on nine currently unencumbered hotels and, assuming all extension options are exercised, will not mature until 2013. This loan would not be subject to any corporate financial covenants and would only be recourse to the borrower, a to-be-formed wholly-owned subsidiary. While we believe that we will successfully close our new secured term loan, as discussed above, we have several other alternatives available to ensure continued compliance with our financial covenants or repay our line of credit, including identifying other sources of debt or equity financing, selling unencumbered hotels and/or implementing additional cost cutting measures. Of course, we can provide no assurance that we will be able to close our new secured term loan, identify additional sources of debt or equity financing or sell hotels on terms that are favorable or otherwise acceptable to us.

We have \$15 million of non-recourse mortgage debt maturing in 2009 (two loans, each secured by different hotels) that we are seeking to extend.

We have two non-recourse mortgage loans aggregating \$277 million secured by 14 hotels that will mature in May 2010. We are in preliminary discussions with potential lenders to refinance all of our debt that will mature in 2010 and 2011.

We currently expect approximately \$97 to \$112 million of cash flow provided by operating activities for 2009. This forecast assumes our hotel RevPAR decreases by 12% to 14%. Our current operating plan contemplates that we will make no additional common or preferred dividend payments leaving approximately \$87 million to \$102 million in surplus cash flow (before capital expenditures and debt reduction). In 2009, we plan to spend approximately \$84 million on capital expenditures and will pay \$11 million in normal recurring principal payments, which will be funded from operating cash flow and borrowings.

The overall weakness in the U.S. economy, particularly the turmoil in the credit markets, has resulted in considerable negative pressure on both consumer and business spending. As a result, lodging demand continued to weaken in the first quarter and contributed to further weakening of our Consolidated Hotel RevPAR. We expect negative year over year RevPAR in 2009. We anticipate that lodging demand will not improve, and may weaken further, until the current economic trends reverse course, particularly the expected weakness in the overall economy and the lack of liquidity in the credit markets.

The capital markets, and our access to financing on reasonably acceptable terms or not at all, have historically been affected by external events and circumstances, such as recessions, major bank failures, the subprime mortgage crisis, rising unemployment, shrinking GDP, acts of terrorism, etc. Events, or circumstances of similar magnitude or impact, could adversely affect the availability and cost of our capital going forward. In addition, if the recession in the overall economy and the lodging industry continues, our operating cash flow and the availability and cost of capital for our business will be adversely affected.

We are subject to increases in hotel operating expenses, including wage and benefit costs, repair and maintenance expenses, utilities and insurance expenses that can fluctuate disproportionately to revenues. Operating expenses are difficult to predict and control, which lends volatility in our operating results. If hotel RevPAR decreases and/or Hotel EBITDA margins shrink, our operations, earnings and/or cash flow could suffer a material adverse effect.

Debt

Line of Credit. At March 31, 2009, we had \$128 million borrowed under our \$250 million line of credit. The interest rate on our line of credit was LIBOR plus 1.0% at March 31, 2009.

Our line of credit contains certain restrictive financial covenants, including a leverage ratio, fixed charge coverage ratio, unencumbered leverage ratio and maximum payout ratio. At the date of this filing, we were in compliance with all of these covenants. Our compliance with these covenants in future periods will depend substantially on the financial results of our hotels. If current financial market conditions persist and our business continues to deteriorate, we may fail to comply with one or more of these covenants in 2009.

Our other borrowings contain affirmative and negative covenants that are generally no more restrictive than our line of credit. Payment of amounts due under our line of credit is guaranteed by us and certain of our subsidiaries who also guarantee payment of our senior notes, and payment of those obligations is secured by a pledge of our limited partnership interest in FelCor LP.

Mortgage Debt. At March 31, 2009, we had aggregate mortgage indebtedness of \$923 million, secured by 44 of our consolidated hotels with an aggregate book value of \$1.4 billion. Our hotel mortgage debt is recourse solely to the specific assets securing the debt, except in the case of fraud, misapplication of funds and other customary recourse carve-out provisions. Loans secured by certain of our hotels provide for lock-box arrangements under certain circumstances. We generally are permitted to retain an amount required to cover our budgeted hotel operating expenses, taxes, insurance and capital expenditure reserves but the remaining revenues would become subject to a lock-box arrangement if a specified debt service coverage ratio is not met. These hotels currently exceed the minimum debt service coverage ratio; however, under the terms of these loan agreements, the lock-box provisions will remain in place until the loans are repaid.

In March 2009, we entered into a loan agreement with The Prudential Insurance Company of America secured by mortgages on seven hotels. The proceeds of the loan were used to repay the balance of an existing loan secured by the same properties that would have matured on April 1, 2009. The loan matures in 2014 and bears interest at an annual rate of 9.02%. FelCor has the right to prepay the loan and/or obtain partial release of one or more of the mortgages, subject to certain conditions.

Our hotel mortgage debt contains provisions allowing for the substitution of collateral upon satisfaction of certain conditions. Most of our mortgage debt is prepayable, subject to various prepayment, yield maintenance or defeasance obligations.

Senior Notes. Our publicly-traded senior notes require that we satisfy total leverage, secured leverage and interest coverage tests in order to: (i) incur additional indebtedness except to refinance maturing debt with replacement debt, as defined under our indentures; (ii) pay dividends in excess of the minimum distributions required to meet the REIT qualification test; (iii) repurchase capital stock; or (iv) merge. As of the date of this filing, we have satisfied all such tests. Under the terms of one of our indentures, we are prohibited from repurchasing any of our capital stock, whether common or preferred, subject to certain exceptions, so long as our debt-to-EBITDA ratio, as defined in the indentures, exceeds 4.85 to 1, which it does at the date of this filing. In addition, if we were unable to continue to satisfy the incurrence test under the indentures governing our senior notes, we may be prohibited from, among other things, incurring any additional indebtedness, except under certain specific exceptions, or paying dividends on our preferred or common stock, except to the extent necessary to satisfy the REIT qualification requirement that we distribute currently at least 90% of our taxable income.

Interest Rate Caps. To fulfill requirements under certain loans, we entered into interest rate cap agreements with aggregate notional amounts of \$427.2 million at both March 31, 2009 and December 31, 2008. These interest rate caps were not designated as hedges and had insignificant fair values at both March 31, 2009 and December 31, 2008, resulting in no significant net earnings impact.

Inflation

Operators of hotels, in general, possess the ability to adjust room rates daily to reflect the effects of inflation. Competition may, however, require us to reduce room rates in the near term and may limit our ability to raise room rates in the future. We are also subject to the risk that inflation will cause increases in hotel operating expenses disproportionately to revenues. If competition requires us to reduce room rates or limits our ability to raise room rates in the future, we may not be able to adjust our room rates to reflect the effects of inflation in full, in which case our operating results and liquidity could be adversely affected.

Seasonality

The lodging business is seasonal in nature. Generally, hotel revenues are greater in the second and third calendar quarters than in the first and fourth calendar quarters, although this may not be true for hotels in major tourist destinations. Revenues for hotels in tourist areas generally are substantially greater during tourist season than other times of the year. Seasonal variations in revenue at our hotels can be expected to cause quarterly fluctuations in our revenues. Quarterly earnings also may be adversely affected by events beyond our control, such as extreme weather conditions, economic factors and other considerations affecting travel. To the extent that cash flow from operations is insufficient during any quarter, due to temporary or seasonal fluctuations in revenues, we may utilize cash on hand or borrowings to satisfy our obligations or make distributions to our equity holders.

Disclosure Regarding Forward-Looking Statements

This report and the documents incorporated by reference in this report include forward-looking statements that involve a number of risks and uncertainties. Forward-looking statements can be identified by the use of forward-looking terminology, such as “believes,” “expects,” “anticipates,” “may,” “will,” “should,” “seeks”, or other variations of these terms (including their use in the negative), or by discussions of strategies, plans or intentions. A number of factors could cause actual results to differ materially from those anticipated by these forward-looking statements. Certain of these risks and uncertainties are described in greater detail under “Risk Factors” in our Annual Report on Form 10-K or in our other filings with the Securities and Exchange Commission, or the SEC.

These forward-looking statements are necessarily dependent upon assumptions and estimates that may prove to be incorrect. Accordingly, while we believe that the plans, intentions and expectations reflected in these forward-looking statements are reasonable, we cannot assure you that deviations from these plans, intentions or expectations will not be material. The forward-looking statements included in this report, and all subsequent written and oral forward-looking statements attributable to us or persons acting on our behalf, are expressly qualified in their entirety by the risk factors and cautionary statements discussed in our filings to the SEC. We undertake no obligation to publicly update any forward-looking statements to reflect future circumstances or changes in our expectations.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

Quantitative and Qualitative Disclosures About Market Risk

At March 31, 2009, approximately 51% of our consolidated debt had fixed interest rates.

The following table provides information about our financial instruments that are sensitive to changes in interest rates. For debt obligations, the table presents scheduled maturities and weighted average interest rates, by maturity dates. The fair value debt indicates the estimated principal amount of debt having the same debt service requirements that could have been borrowed at the date presented, at then current market interest rates.

Expected Maturity Date at March 31, 2009 (dollars in thousands)

	March 31, 2009						Total	Fair Value
	Expected Maturity Date							
	2009	2010	2011	2012	2013	Thereafter		
Liabilities	(dollars in thousands)							
Fixed rate:								
Debt	\$ 25,420	\$ 278,189	\$ 306,893	\$ 4,766	\$ 5,162	\$ 175,603	\$ 796,033	663,171
Average interest rate	7.20%	8.71%	8.98%	7.74%	7.75%	7.99%	8.59%	
Floating rate:								
Debt	-	310	593,000	177,225	-	-	770,535	552,296
Average interest rate ^(a)	-	4.25%	3.45%	4.50%	-	-	3.69%	
Total debt	\$ 25,420	\$ 278,499	\$ 899,893	\$ 181,991	\$ 5,162	\$ 175,603	\$ 1,566,568	
Average interest rate	7.20%	8.70%	5.33%	4.59%	7.75%	7.99%	6.18%	
Net discount							(1,409)	
Total debt							\$ 1,565,159	

(a) The average floating interest rate represents the implied forward rates in the yield curve at March 31, 2009.

Item 4. Controls and Procedures

(a) *Evaluation of disclosure controls and procedures.*

Under the supervision and with the participation of our management, including our chief executive officer and chief financial officer, we conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) promulgated under the Securities Exchange Act of 1934) as of the end of the period covered by this report (the "Evaluation Date"). Based on this evaluation, our chief executive officer and chief financial officer concluded, as of the Evaluation Date, that our disclosure controls and procedures were effective, such that the information relating to us required to be disclosed in our reports is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and is accumulated and communicated to our management, including our chief executive officer and chief financial officer, as appropriate, to allow timely decisions regarding required disclosures.

(b) *Changes in internal control over financial reporting.*

There have not been any changes in our internal control over financial reporting (as defined in Rule 13a-15(f) promulgated under the Securities Exchange Act of 1934) during the quarter covered by this report that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. -- OTHER INFORMATION

Item 5. Other Information

In May 2009, the Compensation Committee and our Board of Directors authorized FelCor Lodging Limited Partnership, of which the Company is the general partner, to guaranty unconditionally the Company's indemnification obligations to its directors and officers and to guaranty unconditionally the Company's cash compensation and other non-equity obligations to various employees pursuant to existing employment agreements, contingent future cash payment agreements and as generally provided in our standard Change in Control and Severance Agreement. The purpose of the foregoing guaranties is to ensure that the objective of those rights – primarily, retaining skilled and valuable directors and employees – is accomplished. FelCor Lodging Limited Partnership generally bears the economic responsibility for such costs because substantially all of the services provided by the directors, officers and other employees to the Company are so provided in the Company's capacity as general partner of the partnership, and substantially all of the business of the Company is conducted through the partnership; however, the guaranties provide the individuals the right to look to FelCor Lodging Limited Partnership directly for those rights.

The rights of an indemnified director or officer under the Amended and Restated Indemnification Agreement are substantially identical to the rights provided under the existing agreements, and complement any rights the indemnitee may already have under the Company's charter or bylaws, under Maryland law or otherwise, and under the partnership agreement of FelCor Lodging Limited Partnership, under Delaware law or otherwise. The Amended and Restated Indemnification Agreement requires the Company to indemnify and advance expenses and costs incurred by the indemnitee in connection with any claims, suits or proceedings arising as a result of the indemnitee's service as an officer or director of the Company.

The foregoing summaries of the forms of the Indemnification Agreement (as amended) and the Guaranty Agreement are qualified in their entirety by reference to the full text of those agreements, copies of the forms of which are attached to this report as Exhibits 10.1 and 10.2 and are incorporated by reference herein.

Item 6. Exhibits

The following exhibits are furnished in accordance with the provisions of Item 601 of Regulation S-K:

<u>Exhibit Number</u>	<u>Description of Exhibit</u>
10.1	Form of Indemnification Agreement by and among FelCor, FelCor LP and individual officers and directors of FelCor (superseding the form of Indemnification Agreement that was filed as Exhibit 10.1 to FelCor's Form 8-K dated November 9, 2006 and filed on November 13, 2006).
10.2	Form of Guaranty Agreement by and among FelCor, FelCor LP and individual employees of FelCor.
10.3	Loan Agreement, dated March 31, 2009, by and between FelCor/CSS (SPE), L.L.C., as borrower, The Prudential Insurance Company of America, as lender, and joined by DJONT Operations, L.L.C.
10.4	Form of Mortgage and Security Agreement, dated March 31, 2009, executed by FelCor/CSS (SPE), L.L.C. and DJONT Operations, L.L.C. for the benefit of The Prudential Insurance Company of America.

- 10.5 Promissory Note, dated March 31, 2009, made by FelCor/CSS (SPE), L.L.C., as borrower, in favor of The Prudential Insurance Company of America.
- 10.6 Recourse Liabilities Guarantee, dated March 31, 2009, made by FelCor and FelCor LP in favor of The Prudential Insurance Company of America.
- 31.1 Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 31.2 Certification of the Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 32.1 Certification of the Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 32.2 Certification of the Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

FELCOR LODGING TRUST INCORPORATED

Date: May 8, 2009

By: /s/ Lester C. Johnson
Name: Lester C. Johnson
Title: Senior Vice President and Chief Accounting Officer

INDEMNIFICATION AGREEMENT

This INDEMNIFICATION AGREEMENT is made and entered into as of _____ (this "Agreement"), by and among FelCor Lodging Trust Incorporated, a Maryland corporation (the "Company"), FelCor Lodging Limited Partnership, a Delaware limited partnership ("FLLP"), and the individual executing this Agreement as "Indemnitee" below ("Indemnitee").

WHEREAS, at the request of the Company, Indemnitee currently serves as a director or officer of the Company and may, therefore, be subjected to claims, suits or proceedings arising as a result of his or her service; and

WHEREAS, as an inducement to Indemnitee to continue to serve as such director or officer, the Company has agreed to indemnify and to advance expenses and costs incurred by Indemnitee in connection with any such claims, suits or proceedings, to the fullest extent permitted by law;

WHEREAS, the Company is the general partner of FLLP and holds, indirectly, a limited partner interest in FLLP that, together with the general partner interest, comprises more than 95% of the aggregate partnership interests in FLLP, and substantially all of the Company's business is conducted through FLLP;

WHEREAS, as a further inducement to Indemnitee to continue to serve as a director or officer of the Company, FLLP has agreed to unconditionally guaranty performance of the Company's obligations under this Agreement, all in accordance with the provisions hereof; and

WHEREAS, the parties, by this Agreement, desire to set forth their agreement regarding indemnification and advancement of expenses;

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

Section 1. Definitions. For purposes of this Agreement:

(a) "Corporate Status" means the status of a person who is or was a director, trustee, officer, employee or agent of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise for which such person is or was serving at the request of the Company.

(b) "Disinterested Director" means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(c) "Expenses" shall include all reasonable and out of pocket attorneys' fees, disbursements and retainers, court costs, transcript costs, fees and disbursements of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, telephone and fax

transmission charges, and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, or being or preparing to be a witness in a Proceeding, including a Proceeding brought by Indemnitee to enforce indemnification or advance of Expenses.

(d) “Liabilities” shall mean judgments, damages, liabilities, losses, penalties, excise taxes, fines and amounts paid in settlement.

(e) “Proceeding” includes any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, administrative hearing or any other proceeding, whether civil, criminal, administrative or investigative (including on appeal), including a proceeding initiated by Indemnitee pursuant to Section 12 of this Agreement to enforce Indemnitee’s rights hereunder.

Section 2. Services by Indemnitee. Indemnitee will serve as a director or officer of the Company. However, this Agreement shall not impose any obligation on Indemnitee or the Company to continue Indemnitee’s service to the Company beyond any period otherwise required by law or by other agreements or commitments of the parties, if any.

Section 3. Indemnification - General. The Company shall indemnify, and advance Expenses to, Indemnitee (a) as provided in this Agreement and (b) otherwise to the fullest extent permitted by Maryland law in effect on the date hereof and as amended from time to time; provided, however, that no change in Maryland law shall have the effect of reducing the benefits available to Indemnitee hereunder based on Maryland law as in effect on the date hereof. The rights of Indemnitee provided in this Section 3 shall include any indemnification of Indemnitee permitted by Section 2-418(g) of the Maryland General Corporation Law (“MGCL”).

Section 4. Proceedings Other Than Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section 4 if, by reason of his or her Corporate Status, he or she is, or is threatened to be, made a party to or a witness in any threatened, pending or completed Proceeding, other than a Proceeding by or in the right of the Company. Pursuant to this Section 4, Indemnitee shall be indemnified against all Liabilities and Expenses actually and reasonably incurred by him or her or on his or her behalf in connection with a Proceeding by reason of his or her Corporate Status unless it is established that (i) the act or omission of Indemnitee was material to the matter giving rise to the Proceeding and (a) was committed in bad faith or (b) was the result of active and deliberate dishonesty, (ii) Indemnitee actually received an improper personal benefit in money, property or services, or (iii) in the case of any criminal Proceeding, Indemnitee had reasonable cause to believe that his or her conduct was unlawful.

Section 5. Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section 5 if, by reason of his or her Corporate Status, he or she is, or is threatened to be, made a party to or a witness in any threatened, pending or completed Proceeding brought by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 5, Indemnitee shall be indemnified

against all amounts paid in settlement and all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection with such Proceeding unless it is established that (i) the act or omission of Indemnitee was material to the matter giving rise to such a Proceeding and (a) was committed in bad faith or (b) was the result of active and deliberate dishonesty or (ii) Indemnitee actually received an improper personal benefit in money, property or services; provided, however, that no indemnification against such Expenses shall be made in respect of any Proceeding in which Indemnitee shall have been finally adjudged to be liable to the Company.

Section 6. Court-Ordered Indemnification. Notwithstanding any other provision of this Agreement, a court of appropriate jurisdiction, upon application of Indemnitee and such notice as the court shall require, may order indemnification in the following circumstances:

(a) if it determines Indemnitee is entitled to reimbursement under Section 2-418(d)(1) of the MGCL, the court shall order indemnification, in which case Indemnitee shall be entitled to recover the expenses of securing such reimbursement; or

(b) if it determines that Indemnitee is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not Indemnitee (i) has met the standards of conduct set forth in Section 2-418(b) of the MGCL or (ii) has been adjudged liable for receipt of an improper personal benefit under Section 2-418(c) of the MGCL, the court may order such indemnification as the court shall deem proper. However, indemnification with respect to any Proceeding by or in the right of the Company or in which liability shall have been adjudged in the circumstances described in Section 2-418(c) of the MGCL shall be limited to Expenses actually and reasonably incurred by him or her or on his or her behalf in connection with a Proceeding.

Section 7. Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for a portion of the Expenses or Liabilities, but not, however, for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion thereof to which Indemnitee is entitled.

Section 8. Indemnification for Expenses of Party Who is Wholly or Partly Successful. Notwithstanding any other provision of this Agreement, and without limiting any such provision to the extent that Indemnitee is, by reason of Indemnitee's Corporate Status, a party to and is successful, on the merits or otherwise, in any Proceeding, Indemnitee shall be indemnified for all Expenses reasonably incurred by Indemnitee or on Indemnitee's behalf in connection therewith. Without limiting any other rights of Indemnitee in this Agreement, if Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee for all Expenses reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with each successfully resolved claim, issue or matter. For purposes of this Agreement, the termination of any claim, issue or matter in such a Proceeding

by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

Section 9. Advance of Expenses. The Company shall advance all reasonable Expenses actually and reasonably incurred by or on behalf of Indemnitee in connection with any Proceeding (including a Proceeding brought by Indemnitee to enforce indemnification or advance of Expenses under this Agreement, applicable law, the Charter or Bylaws of the Company, any agreement approved by the Board of Directors or a resolution of the Board of Directors) to which Indemnitee is, or is threatened to be made, a party or a witness, within ten days after the receipt by the Company of a statement or statements from Indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnitee and shall include or be preceded or accompanied by a written affirmation by Indemnitee of Indemnitee's good faith belief that the standard of conduct necessary for indemnification by the Company as authorized by law and by this Agreement has been met and a written undertaking by or on behalf of Indemnitee, in substantially the form attached hereto as Exhibit A or in such form as may be required under applicable law as in effect at the time of the execution thereof, to reimburse the portion of any Expenses advanced to Indemnitee relating to claims, issues or matters in the Proceeding as to which it shall ultimately be established that the standard of conduct has not been met and which have not been successfully resolved as described in Section 8. To the extent that Expenses advanced to Indemnitee do not relate to a specific claim, issue or matter in the Proceeding, such Expenses shall be allocated on a reasonable and proportionate basis. The undertaking required by this Section 9 shall be an unlimited general obligation by or on behalf of Indemnitee and shall be accepted without reference to Indemnitee's financial ability to repay such advanced Expenses and without any requirement to post security therefor.

Section 10. Procedure for Payment of Indemnifiable Amounts. Indemnitee shall submit to the Company a written request specifying the applicable indemnifiable amounts for which Indemnitee seeks payment under Sections 3, 4, 5, 7 or 8 of this Agreement and the basis for the claim. Subject to the exceptions set forth in Sections 4 and 5, the Company shall pay such applicable indemnifiable amounts to Indemnitee within 20 calendar days of receipt of the request. At the request of the Company, Indemnitee shall furnish such documentation and information as are reasonably available to Indemnitee and necessary to establish that Indemnitee is entitled to indemnification hereunder.

Section 11. Presumptions and Effect of Certain Proceedings.

(a) In making any determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 10 of this Agreement, and the Company shall have the burden of proof to overcome that presumption in connection with the making of any determination contrary to that presumption.

(b) The termination of any Proceeding by judgment, order, settlement, conviction, a plea of nolo contendere or its equivalent, or an entry of an order of probation prior to judgment, does not create a presumption that Indemnitee did not meet the requisite standard of conduct described herein for indemnification or a presumption that the act or omission of the Indemnitee was material to the matter giving rise to the Proceeding and was committed in bad faith or was the result of active and deliberate dishonesty or the Indemnitee actually received an improper personal benefit in money, property or services or, with respect to any criminal action or proceeding, had reasonable cause to believe that Indemnitee's action was unlawful.

Section 12. Remedies of Indemnitee.

(a) If (i) a determination is made that Indemnitee is not entitled to indemnification under this Agreement, (ii) advance of Expenses is not timely made pursuant to Section 9 of this Agreement, or (iii) payment of indemnification is not made pursuant to Section 10 of this Agreement within 20 days after receipt by the Company of a written request therefor, Indemnitee shall be entitled to an adjudication in an appropriate court located in the State of Maryland, or in any other court of competent jurisdiction, of his or her entitlement to such indemnification or advance of Expenses. Alternatively, Indemnitee, at his or her option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association.

(b) In any judicial proceeding or arbitration commenced pursuant to this Section 12 the Company shall have the burden of proving that Indemnitee is not entitled to indemnification or advance of Expenses, as the case may be.

(c) If a determination shall have been made that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 12, absent a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification.

(d) In the event that Indemnitee, pursuant to this Section 12, seeks a judicial adjudication of or an award in arbitration to enforce his or her rights under, or to recover damages for breach of, this Agreement, Indemnitee shall be entitled to recover from the Company, and shall be indemnified by the Company for, any and all Expenses actually and reasonably incurred by him or her in such judicial adjudication or arbitration, including any claim or counterclaim brought by the Company in connection therewith. If it shall be determined in such judicial adjudication or arbitration that Indemnitee is entitled to receive part but not all of the indemnification or advance of Expenses sought, the Expenses incurred by Indemnitee in connection with such judicial adjudication or arbitration shall be appropriately prorated.

(e) The Company shall be precluded from asserting in any Proceeding, including, without limitation, an action under Section 12(a) above, that the provisions of this Agreement are not valid, binding and enforceable or that there is insufficient consideration for this Agreement and shall stipulate in court that the Company is bound by all the provisions of this Agreement.

(f) The failure of the Company (including its Board of Directors or any committee thereof, independent legal counsel, or stockholders) to make a determination concerning the permissibility of the payment of indemnifiable amounts or the advance of Expenses under this Agreement shall not be a defense in any action brought under Section 12(a) above, and shall not create a presumption that such payment or advance is not permissible.

Section 13. Defense of the Underlying Proceeding.

(a) Indemnitee shall notify the Company promptly upon being served with or receiving any summons, citation, subpoena, complaint, indictment, information, notice, request or other document relating to any Proceeding which may result in the right to indemnification or the advance of Expenses hereunder; provided, however, that the failure to give any such notice shall not disqualify Indemnitee from the right, or otherwise affect in any manner any right of Indemnitee, to indemnification or the advance of Expenses under this Agreement unless the Company's ability to defend in such Proceeding or to obtain proceeds under any insurance policy is materially and adversely prejudiced thereby, and then only to the extent the Company is thereby actually so prejudiced.

(b) Subject to the provisions of the last sentence of this Section 13(b) and of Section 13(c) below, the Company shall have the right to defend Indemnitee in any Proceeding which may give rise to indemnification hereunder; provided, however, that the Company shall notify Indemnitee of any such decision to defend within 15 calendar days following receipt of notice of any such Proceeding under Section 13(a) above. The Company shall not, without the prior written consent of Indemnitee, which shall not be unreasonably withheld or delayed, consent to the entry of any judgment against Indemnitee or enter into any settlement or compromise which (i) includes an admission of fault of Indemnitee or (ii) does not include, as an unconditional term thereof, the full release of Indemnitee from all liability in respect of such Proceeding, which release shall be in form and substance reasonably satisfactory to Indemnitee. This Section 13 shall not apply to a Proceeding brought by Indemnitee under Section 12 above.

(c) Notwithstanding the provisions of Section 13(b) above, if in a Proceeding to which Indemnitee is a party by reason of Indemnitee's Corporate Status, (i) Indemnitee reasonably concludes, based upon an opinion of counsel approved by the Company, which approval shall not be unreasonably withheld, that he or she may have separate defenses or counterclaims to assert with respect to any issue which may not be

consistent with other defendants in such Proceeding, (ii) Indemnitee reasonably concludes, based upon an opinion of counsel approved by the Company, which approval shall not be unreasonably withheld, that an actual or apparent conflict of interest or potential conflict of interest exists between Indemnitee and the Company, or (iii) if the Company fails to assume the defense of such Proceeding in a timely manner, Indemnitee shall be entitled to be represented by separate legal counsel of Indemnitee's choice, subject to the prior approval of the Company, which shall not be unreasonably withheld, at the expense of the Company. In addition, if the Company fails to comply with any of its obligations under this Agreement or in the event that the Company or any other person takes any action to declare this Agreement void or unenforceable, or institutes any Proceeding to deny or to recover from Indemnitee the benefits intended to be provided to Indemnitee hereunder, Indemnitee shall have the right to retain counsel of Indemnitee's choice, subject to the prior approval of the Company, which shall not be unreasonably withheld, at the expense of the Company (subject to Section 12(d)), to represent Indemnitee in connection with any such matter.

Section 14. Non-Exclusivity; Survival of Rights; Subrogation; Insurance.

(a) The rights of indemnification and advance of Expenses as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the Charter or Bylaws of the Company, any agreement or a resolution of the stockholders entitled to vote generally in the election of directors or of the Board of Directors, or otherwise. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in his or her Corporate Status prior to such amendment, alteration or repeal.

(b) In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(c) The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable or payable or reimbursable as Expenses hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

Section 15. Insurance. The Company will use its reasonable best efforts to acquire directors and officers liability insurance, on terms and conditions deemed appropriate by the Board of Directors of the Company, with the advice of counsel, covering Indemnitee or any claim made against Indemnitee for service as a director or officer of the Company and covering the Company for any indemnification or advance of Expenses made by the Company to Indemnitee for any claims made against Indemnitee for service as a director or officer of the Company. Without in any way limiting any other obligation under this Agreement, the

Company shall indemnify Indemnitee for any payment by Indemnitee arising out of the amount of any deductible or retention and the amount of any excess of the aggregate of all judgments, penalties, fines, settlements and reasonable Expenses actually and reasonably incurred by Indemnitee in connection with a Proceeding over the coverage of any insurance referred to in the previous sentence.

Section 16. Indemnification for Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is or may be, by reason of his or her Corporate Status, a witness in any Proceeding, whether instituted by the Company or any other party, and to which Indemnitee is not a party but in which the Indemnitee receives a subpoena to testify, he or she shall be advanced all reasonable Expenses and indemnified against all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection therewith.

Section 17. Unconditional Guaranty.

(a) General. FLLP hereby absolutely and unconditionally guaranties the Company's obligations and liabilities, contingent or otherwise, including without limitation, the Company's performance of its various covenants herein, owed to Indemnitee insofar as they arise hereunder (all of the foregoing being the "Guaranty"). The Company and FLLP shall be jointly and severally liable for the Company's obligations guarantied hereunder. FLLP's liabilities and obligations with regard to the Guaranty shall be separate and distinct from, but not incremental in respect of, the Company's underlying obligations, and Indemnitee may seek performance of such obligations by both FLLP and the Company concurrently and without first recourse to and seeking performance by the Company. Indemnitee shall not be required to pursue any other remedies before invoking the benefits of the guaranties contained herein, and specifically it shall not be required to make demand upon or institute suit or otherwise pursue or exhaust its remedies against the Company or any surety other than FLLP or to proceed against any security now or hereafter existing for the payment of any of the liabilities and obligations guarantied hereby. Indemnitee may maintain an action on the Guaranty without joining the Company therein and without bringing a separate action against the Company.

(b) Waiver of Defenses; Procedures. FLLP waives all defenses given to sureties or guarantors at law or in equity other than the actual payment of the Guaranty, including without limitation, the provisions of Section 34.02 of the Texas Business and Commerce Code, and all defenses based upon questions as to the validity, legality or enforceability of the Guaranty and/or indemnification of Indemnitee hereunder. FLLP further agrees that FLLP will be primarily liable hereunder. If Indemnitee calls upon FLLP to perform in the Company's stead in accordance with the Guaranty, Indemnitee may avail himself or herself of the procedures set forth herein for indemnification and advancement of expenses hereby by the Company, substituting or adding FLLP to such procedures and proceedings directly.

(c) No Modification; No Release. The Guaranty, and FLLP's liabilities and obligations in respect thereof, shall not be modified, changed, released, limited or impaired in any manner whatsoever on account of any or all of the following:

(i) the incapacity, death, disability, dissolution or termination of FLLP or the Company, or any other entity, or the incapacity, death or disability of Indemnitee or any other person;

(ii) the failure by Indemnitee to file or enforce a claim against the estate (either in administration, bankruptcy or other proceeding) of the Company or any other person or entity;

(iii) any transfers or assignments of rights hereunder;

(iv) any modifications, extensions, amendments, consents, releases or waivers with respect to the Company's obligations hereunder, any other instrument now or hereafter securing the performance of the Company's obligations hereunder;

(v) any failure of Indemnitee to give any notice to FLLP of any default under the this Agreement;

(vi) FLLP is or becomes liable for any indebtedness owing by the Company to Indemnitee other than under this Agreement; or

(vii) any impairment, modification, change, release or limitation of the liability of, or stay of actions or lien enforcement proceedings against, the Company, its property, or its estate in bankruptcy resulting from the operation of any present or future provision of the Federal Bankruptcy Code or any other present or future federal or state insolvency, bankruptcy or similar law (all of the foregoing hereinafter collectively called "applicable Bankruptcy Law") or from the decision of any court.

Should the status, structure or composition of the Company change, this Guaranty shall continue and also cover the obligations hereunder of the Company under its new status, structure or composition according to the terms hereof. If any payment by the Company (or its successor(s) in interest) to Indemnitee is held to constitute a preference under any applicable Bankruptcy Law, or if for any other reason Indemnitee is required to refund such payment or pay the amount thereof to any other party, such payment by the Company to Indemnitee shall not constitute a release of FLLP from any liability hereunder, but FLLP agrees to pay such amount to Indemnitee upon demand, and this Guaranty shall continue to be effective or shall be reinstated, as the case may be, to the extent of any such payment or payments.

Section 18. Duration of Agreement; Binding Effect.

(a) This Agreement shall continue until and terminate upon the expiration of the applicable statute of limitations for claims against Indemnitee which are subject to indemnification pursuant to this Agreement; provided that the rights of Indemnitee hereunder shall continue until the final termination of any Proceeding then pending in respect of which Indemnitee is granted rights of indemnification or advance of Expenses hereunder, and of any Proceeding commenced by Indemnitee pursuant to Section 12 of this Agreement relating thereto, and of any Proceeding commenced after the expiration of the applicable statute of limitations and subsequently dismissed as a result thereof.

(b) The indemnification and advance of Expenses provided by, or granted pursuant to, this Agreement shall be binding upon and be enforceable by the parties hereto and their respective successors and assigns (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), shall continue as to an Indemnitee who has ceased to be a director, trustee, officer, employee or agent of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise which such person is or was serving at the written request of the Company, and shall inure to the benefit of Indemnitee and his or her spouse, assigns, heirs, devisees, executors and administrators and other legal representatives.

(c) The Company and FLLP shall each require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all or a substantial part, of the business and/or assets of the Company or FLLP, as the case may be, by written agreement in form and substance reasonably satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that they would be required to perform if no such succession had taken place.

Section 19. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including, without limitation, each portion of any section of this Agreement containing any such provision held to be invalid, illegal or unenforceable that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (b) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

Section 20. Representations and Warranties of the Company and FLLP. Each of the Company and FLLP hereby represents and warrants to Indemnitee as follows:

(a) Each has all necessary corporate or partnership (as the case may be) power and authority to enter into, and be bound by the terms of, this Agreement, and the execution, delivery and performance of the undertakings contemplated by this Agreement have been duly authorized by each of them.

(b) This Agreement, when executed and delivered by each of the Company and FLLP in accordance with the provisions hereof, shall be their respective legal, valid and binding obligations, enforceable against each of them in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or similar laws affecting the enforcement of creditors' rights generally or general equitable principles, and to the extent limited by applicable federal or state securities laws.

Section 21. Identical Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. One such counterpart signed by the party against whom enforceability is sought shall be sufficient to evidence the existence of this Agreement.

Section 22. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

Section 23. Modification and Waiver. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by each of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

Section 24. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if (i) delivered by hand and received for by the party to whom said notice or other communication shall have been directed, or (ii) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed:

(a) If to Indemnitee, to the address set forth on the signature page hereto.

(b) If to the Company to:

FelCor Lodging Trust Incorporated
545 East John Carpenter Freeway, Suite 1300
Irving, Texas 75062
Attn: General Counsel

(c) If to FLLP to:

c/o FelCor Lodging Trust Incorporated
545 East John Carpenter Freeway, Suite 1300
Irving, Texas 75062
Attn: General Counsel

or to such other address as may have been furnished to Indemnitee by the Company or to the Company by Indemnitee, as the case may be.

Section 25. Agreement Governs. This Agreement is to be deemed consistent wherever possible with relevant provisions of the Company's Bylaws, as amended, and Charter, as amended, as well as FLLP's limited partnership agreement, as amended; however, in the event of a conflict between this Agreement and such provisions, the provisions of this Agreement shall control.

Section 26. Governing Law. The parties agree that this Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Maryland, without regard to its conflicts of laws rules.

Section 27. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate. This Agreement replaces all other prior agreements relating to the indemnification of Indemnitee by the Company and/or FLLP in connection with Indemnitee's service as an officer or director of the Company and/or FLLP, and all such prior agreements are null and void in all respects.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

FELCOR LODGING TRUST INCORPORATED

By: _____
Name:
Title:

FELCOR LODGING LIMITED PARTNERSHIP

By: *FelCor Lodging Trust Incorporated*
Its: *General Partner*

By: _____
Name:
Title:

INDEMNITEE:

Name:

Address:

EXHIBIT A

FORM OF AFFIRMATION AND UNDERTAKING TO REPAY EXPENSES

To: The Board of Directors of FelCor Lodging Trust Incorporated
The General Partner of FelCor Lodging Limited Partnership

Re: Affirmation and Undertaking to Repay Expenses

Ladies and Gentlemen:

This undertaking is being provided pursuant to that certain Indemnification Agreement dated the ___ day of _____, _____, by and among FelCor Lodging Trust Incorporated (the "Company"), FelCor Lodging Limited Partnership (the "Partnership") and the undersigned Indemnitee (the "Indemnification Agreement"), pursuant to which I am entitled to advance of expenses in connection with [DESCRIPTION OF PROCEEDING] (the "Proceeding").

Terms used herein and not otherwise defined shall have the meanings specified in the Indemnification Agreement.

I am subject to the Proceeding by reason of my Corporate Status or by reason of alleged actions or omissions by me in such capacity. I hereby affirm my good faith belief that at all times, insofar as I was involved as a director or an officer of the Company, in any of the facts or events giving rise to the Proceeding, I (1) acted in good faith and honestly, (2) did not receive any improper personal benefit in money, property or services and (3) in the case of any criminal proceeding, had no reasonable cause to believe that any act or omission by me was unlawful.

In consideration of the advance of Expenses by the Company or the Partnership, as the case may be, for reasonable attorneys' fees and related expenses incurred by me in connection with the Proceeding (the "Advanced Expenses"), I hereby agree that if, in connection with the Proceeding, it is established that (1) an act or omission by me was material to the matter giving rise to the Proceeding and (a) was committed in bad faith or (b) was the result of active and deliberate dishonesty or (2) I actually received an improper personal benefit in money, property or services or (3) in the case of any criminal proceeding, I had reasonable cause to believe that the act or omission was unlawful, then I shall promptly reimburse the portion of the Advanced Expenses relating to the claims, issues or matters in the Proceeding as to which the foregoing findings have been established and which have not been successfully resolved as described in Section 8 of the Indemnification Agreement. To the extent that Advanced Expenses do not relate to a specific claim, issue or matter in the Proceeding, I agree that such Advanced Expenses shall be allocated on a reasonable and proportionate basis.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking to Repay Expenses on this _____ day of _____, _____.

WITNESS:

Name: _____

GUARANTY AGREEMENT

This Guaranty Agreement (this “**Agreement**”) is made by and between FelCor Lodging Limited Partnership, a Delaware limited partnership (“**FLLP**”), and the undersigned individual employee (“**Employee**”) of FelCor Lodging Trust Incorporated, a Maryland corporation (“**FelCor**”).

RECITALS

FelCor is the general partner of FLLP and holds, indirectly, a limited partner interest in FLLP that, together with the general partner interest, comprises more than 95% of the aggregate partnership interests in FLLP. Substantially all of the services provided by the officers and other employees to FelCor are so provided in FelCor’s capacity as FLLP’s general partner, and substantially all of FelCor’s business is conducted through FLLP. FLLP generally bears the economic responsibility for the costs of such services.

Under certain circumstances, pursuant to various agreements (the “**Compensation Agreements**”) with its employees, including Employee, FelCor provides certain benefits, including potential cash severance payments and continued health and welfare benefit plan coverage, to such employees, in large measure to retain skilled and valuable employees. FelCor’s Board of Directors has authorized that such rights be guaranteed unconditionally by FLLP pursuant to this Agreement, which will provide Employee with the right to look to FLLP directly to enforce those rights. FelCor’s Board of Directors has concluded that the Guaranty is consistent with the central objective of providing those rights and will provide greater comfort to Employee and other employees who are entitled to those rights that resources will be available if and when called upon to satisfy FelCor’s obligations to such employees, including Employee.

AGREEMENT

1. Unconditional Guaranty. Therefore, as an enhanced inducement to retain Employee’s valuable skills, experience and knowledge, FLLP hereby absolutely and unconditionally guaranties FelCor’s obligations and liabilities, contingent or otherwise, owed to Employee insofar as they arise under any Compensation Agreement between FelCor or any of its subsidiaries or joint ventures, on the one hand, and Employee, on the other hand. Compensation Agreements include, but are not limited to, any current or future agreements that relate to Employee’s non-equity compensation, whether contingent or otherwise, as such agreements may be amended, extended or altered from time to time (all of the foregoing being the “**Guaranty**”). FelCor and FLLP shall be jointly and severally liable for FelCor’s obligations guarantied hereunder. FLLP’s liabilities and obligations with regard to the Guaranty shall be separate and distinct from, but not incremental in respect of, FelCor’s underlying obligations, and Employee may seek performance of such obligations by both FLLP and FelCor concurrently and without first recourse to and seeking performance by FelCor. Employee shall not be required to pursue any other remedies before invoking the benefits of the guaranties contained herein, and specifically it shall not be required to make demand upon or institute suit or otherwise pursue or exhaust its remedies against FelCor or any surety other than FLLP or to proceed against any security now or hereafter existing for the satisfaction of the Guaranty. Employee may maintain an action on the Guaranty without joining FelCor therein and without bringing a separate action against FelCor.

2. Waiver of Defenses. FLLP waives all defenses given to sureties or guarantors at law or in equity other than the actual payment of the Guaranty, including without limitation, the provisions of Section 34.02 of the Texas Business and Commerce Code, and all defenses based upon questions as to the

validity, legality or enforceability of the Guaranty and/or the Compensation Agreements and agrees that FLLP will be primarily liable hereunder.

3. No Modification; No Release. The liability of FLLP hereunder shall not be modified, changed, released, limited or impaired in any manner whatsoever on account of any or all of the following:

- (a) the incapacity, death, disability, dissolution or termination of FLLP or FelCor, or any other entity, or the incapacity, death or disability of Employee or any other person;
- (b) the failure by Employee to file or enforce a claim against the estate (either in administration, bankruptcy or other proceeding) of FelCor or any other person or entity;
- (c) any transfer or transfers or assignments of rights under the Compensation Agreements;
- (d) any modifications, extensions, amendments, consents, releases or waivers with respect to the Compensation Agreements, any other instrument now or hereafter securing the payment of the obligations under the Compensation Agreements;
- (e) any failure of Employee to give any notice to FLLP of any default under the Compensation Agreements or this Agreement;
- (f) FLLP is or becomes liable for any indebtedness owing by FelCor to Employee other than under this Agreement; or
- (g) any impairment, modification, change, release or limitation of the liability of, or stay of actions or lien enforcement proceedings against, FelCor, its property, or its estate in bankruptcy resulting from the operation of any present or future provision of the Federal Bankruptcy Code or any other present or future federal or state insolvency, bankruptcy or similar law (all of the foregoing hereinafter collectively called "applicable Bankruptcy Law") or from the decision of any court.

If the status, structure or composition of FelCor changes, this Guaranty shall continue and also cover the obligations under the Compensation Agreements of FelCor under its new status, structure or composition according to the terms hereof. If any payment by FelCor (or its successor(s) in interest) to Employee is held to constitute a preference under any applicable Bankruptcy Law, or if for any other reason Employee is required to refund such payment or pay the amount thereof to any other party, such payment by FelCor to Employee shall not constitute a release of FLLP from any liability hereunder, but FLLP agrees to pay such amount to Employee upon demand, and the Guaranty shall continue to be effective or shall be reinstated, as the case may be, to the extent of any such payment or payments.

4. Miscellaneous. This Agreement shall have an initial term ending December 31, 2009, which term shall be automatically renewed for successive 12 month terms unless written notice of non-renewal shall have been delivered to Employee by FLLP at least 180 days prior to the end of the term, as extended hereunder. This Agreement does not modify the rights and responsibilities of any party under any of the Compensation Agreements. This Agreement may only be modified or amended by a written instrument executed by the parties hereto. This Agreement shall be governed by the laws of the State of Texas without reference to principles of conflicts of law.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date indicated below.

DATE: _____

EMPLOYEE:

FELCOR LODGING LIMITED PARTNERSHIP

Name:
Address:

*by FelCor Lodging Trust Incorporated
its General Partner*

By: _____
Name:
Title:

LOAN AGREEMENT

This LOAN AGREEMENT (this “**Agreement**”) dated as of March 31, 2009, is made and entered into by and between FELCOR/CSS (SPE), L.L.C., a Delaware limited liability company (“**Borrower**”), and THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, a New Jersey corporation (“**Lender**”).

RECITALS:

Lender has agreed to make a Loan (defined below) to Borrower in the principal amount of up to ONE HUNDRED TWENTY MILLION AND 00/100 DOLLARS (\$120,000,000.00) to refinance the existing loan encumbering the Embassy Suites hotel projects situated on the real property legally described on Exhibit A-1 through Exhibit A-7.

The parties desire to enter into this Agreement in order to set forth their respective rights and obligations in connection with the administration of the Loan.

NOW, THEREFORE, IN CONSIDERATION of the foregoing recitals, and the mutual covenants and promises of the parties contained in this Agreement, the parties agree as follows:

1. GENERAL DEFINITIONS

Section 1.01 Loan Documents Defined Terms. Capitalized terms which are not otherwise defined in this Agreement shall have the same meaning given to such terms in the Instruments (defined below) or other Documents in which such terms are expressly defined.

Section 1.02 General Terms. In addition to other capitalized terms defined herein, when used herein the terms set forth on Schedule 1 attached hereto shall have the respective meanings set forth on Schedule 1.

2. LOAN TERMS

Section 2.01 The Loan. Lender agrees to make the Loan to Borrower subject to the terms and conditions of this Agreement and the Documents, and Borrower agrees to repay the Loan in accordance with the terms and conditions of this Agreement and the Documents.

Section 2.02 Disbursements. The Loan shall be disbursed in two disbursements, subject to compliance with the terms of this Agreement. Concurrently herewith, Lender shall disburse \$118,292,600.00 (the “**First Disbursement**”). The second disbursement in the amount of \$1,707,400.00 (the “**Second Disbursement**”) shall be made upon satisfaction of the following requirements:

- (a) The Second Disbursement shall occur on or before the Outside Date;
- (b) The Second Disbursement shall occur upon no less than five (5) business days written notice from Borrower to Lender, which notice shall be accompanied by a certification from Borrower, together with evidence reasonably satisfactory to Lender, that Borrower’s affiliates closed on a first mortgage term loan for approximately \$200,000,000, the

proceeds of which are being used to repay an existing line of credit facility of Borrower's affiliates, thereby extinguishing applicable covenants set forth therein (collectively, the "**Refinance**"). Lender and Borrower agree that a copy of the disbursement or settlement statement issued by the applicable title insurance company providing lender's title insurance on the Refinance executed on behalf of the title company and the borrower and lender under the Refinance shall be deemed to be satisfactory evidence of the closing of the Refinance.

- (c) At the time of the Second Disbursement, there is no Event of Default under the Documents (or no event which with the passage of time or the giving of notice or both, would constitute an Event of Default);
- (d) Unless each title policy issued at Closing and insuring the first lien of the Instruments provides affirmative coverage that the Second Disbursement shall have priority over intervening liens, Borrower shall cause to be delivered to Lender an endorsement to the title policy insuring the first lien of the Instruments in the total principal amount of the Loan;
- (e) Borrower shall execute and deliver any documents Lender shall reasonably require to evidence the Second Disbursement;
- (f) Borrower shall pay all legal fees and expenses, recording costs, mortgage taxes and intangible taxes, if any.

If the Second Disbursement shall not occur by the Outside Date, (i) Borrower shall have no further right to receive, and Lender shall have no obligation to fund, the Second Disbursement or any portion thereof, (ii) Borrower will not owe Lender any fees, including any Prepayment Premium, with respect to the unfunded Second Disbursement, (iii) the Principal Amount of the Loan shall be the amount of the First Disbursement (subject to reduction due to normal scheduled principal repayments from amortization and in connection with repayments as provided for in Section 5.03 below), and (iv) the Allocated Loan Amounts shall be the Allocated Loan Amounts (before Second Disbursement) as reflected in the Exhibit B attached hereto.

Section 2.03 *Payments.* Payments on the Loan shall be made as provided in the Notes. All payments due under the Documents shall be paid by wire transfer of immediately available funds to an account of Lender as directed by Lender from time to time.

Section 2.04 *Application of Payments.* Until an Event of Default occurs, all payments received under the Notes shall be applied in the following order: (a) to unpaid Daily Charges, Late Charges and costs of collection; (b) to any Prepayment Premium due; (c) to interest due on the Balance (as defined in the Notes); and (d) then to the Balance. After an Event of Default, all payments shall be applied in any order determined by Lender in its sole discretion.

Section 2.05 *Late Charges.* If any scheduled payment due under the Notes is not fully paid by its Due Date (other than the principal payment due on the Maturity Date), a charge of \$500.00 per day (the "**Daily Charge**") shall be assessed for each day that elapses from and after the Due Date until such payment is made in full (including the date payment is made); provided, however, that if any such payment, together with all accrued Daily Charges, is not fully paid by the fourteenth (14th) day following the applicable Due Date, a late charge equal to the lesser of (i) four percent (4%) of such payment or (ii) the maximum amount allowed by law (the "**Late Charge**") shall be assessed and be immediately due and payable. The Late Charge shall be payable in lieu of Daily Charges that shall have accrued. The Late Charge may be assessed only once on each overdue payment. These charges shall be paid to defray the expenses incurred by Lender in handling and processing such delinquent payment(s) and to compensate Lender for the loss

of the use of such funds. The Daily Charge and Late Charge shall be secured by the Documents. The imposition of the Daily Charge, Late Charge, and/or requirement that interest be paid at the Default Rate shall not be construed in any way to (i) excuse Borrower from its obligation to make each payment under the Notes promptly when due or (ii) preclude Lender from exercising any rights or remedies available under the Documents upon an Event of Default.

Section 2.06 Security. The Loan shall be secured by the Instruments creating a first lien on each Individual Property, the Assignments of Leases and the other Documents. The parties intend that the Notes, Instruments and other Documents encumbering the Individual Property and evidencing and securing the Allocated Principal Amount for each Individual Property shall be fully cross-collateralized and cross-defaulted. The cross-collateral and cross-default nature of the Loan shall not be released with respect to any Allocated Principal Amount for any Individual Property, notwithstanding that such Allocated Principal Amount may be paid in full, unless and until the conditions for obtaining a partial release set forth in Section 5.03 below shall have been satisfied.

Section 2.07 Prepayment. The Loan may be prepaid, in whole or in part, upon at least thirty (30) days' prior written notice to Lender and upon payment of all accrued interest (and other Obligations due under the Documents) and a prepayment premium ("**Prepayment Premium**") equal to the greater of (a) the product of one percent (1%) of the principal amount being prepaid multiplied by the quotient of (i) the number of full months remaining until the Maturity Date, calculated as of the prepayment date, divided by (ii) sixty (60), or (b) the Present Value of the Loan less the amount of principal and accrued interest (if any) being prepaid, calculated as of the prepayment date. The Prepayment Premium shall be due and payable, except as provided in this Agreement or as limited by law, upon any prepayment of the Loan, whether voluntary or involuntary, and Lender shall not be obligated to accept any prepayment of this Note unless it is accompanied by the Prepayment Premium, all accrued interest and all other Obligations due under the Documents. Lender shall notify Borrower of the amount of and the calculation used to determine the Prepayment Premium. Borrower agrees that (a) Lender shall not be obligated to actually reinvest the amount prepaid in any Treasury obligation and (b) the Prepayment Premium is directly related to the damages that Lender will suffer as a result of the prepayment. The "**Present Value of the Loan**" shall be determined by discounting all scheduled payments remaining to the Maturity Date attributable to the amount being prepaid at the Discount Rate. If prepayment occurs on a date other than a Due Date, the actual number of days remaining from the date of prepayment to the next Due Date will be used to discount within this period. Notwithstanding the foregoing, no Prepayment Premium shall be due if this Note is prepaid during the last thirty (30) days prior to the Maturity Date. With respect to the foregoing provisions, Borrower hereby expressly agrees as follows:

(a) The Note Rate (as defined in the Notes) has been determined based on the sum of (i) the Treasury Rate in effect at the time the Note Rate was determined under the Loan Application submitted to Lender, plus (ii) an interest rate spread over such Treasury Rate, which together represent Lender's agreed-upon return for making the proceeds of the Loan hereunder available to Borrower over the term of such Loan.

(b) The determination of the Note Rate, and in particular the aforesaid interest rate spread, were based on the expectation and agreement of Borrower and Lender that the principal sums advanced hereunder would not be prepaid during the term of the Loan, or if any such prepayment occurs, the Prepayment Premium (calculated in the manner set forth above) would apply (except as expressly permitted by this Agreement).

(c) The Lender's business involves making financial commitments to others based in part on the returns it expects to receive from the Loan and other similar loans made by Lender, and Lender's financial performance as a business depends not only on the returns from each loan or

investment it makes but also upon the aggregate amounts of the loans and investments it is able to make over any given period of time.

(d) In the event of a prepayment hereunder, Lender will be required to redeploy the funds received into other loans or investments, which (i) may not provide a return to Lender comparable to the return Lender anticipates based on the Note Rate and (ii) may reduce the total amount of loans or investments Lender is able to make during the term of the Loan, which in turn may impair the profitability of Lender's business. Therefore, in order to compensate Lender for the potential impact and risks to its business of prepayments under this Note, Lender has limited the Borrower's right to prepay this Note and has offered the method of calculation of the Prepayment Premium set forth above.

(e) Borrower acknowledges that Lender could have restricted prepayments for a portion of the term of the Loan or determined that it would not permit prepayments altogether under the Notes during its term, and therefore, in electing to permit prepayments hereunder, Lender is entitled to determine and negotiate the terms on which it will accept prepayments of its loans.

Therefore, in consideration of Lender's agreement to the Note Rate set forth herein, and in recognition of Lender's reliance on the prepayment provisions of this Agreement (including the method of calculating the Prepayment Premium), Borrower agrees that the manner of calculation of the Prepayment Premium set forth in this Agreement represents bargained-for compensation to Lender for granting to Borrower the privilege of prepaying the Notes on the terms set forth herein and for the potential loss of future income to Lender arising from having to redeploy the amounts prepaid under the Notes into other loans or investments. As such, the Prepayment Premium constitutes reasonable compensation to Lender for making the Loan on the terms reflected in the Notes and does not represent any form of damages (liquidated or otherwise), nor does it represent a penalty.

Section 2.08 Use of Proceeds. Borrower shall use the proceeds of the Loan to repay and discharge any existing loans relating to the Property and pay costs and expenses incurred in connection with the closing of the Loan. The balance, if any, shall be distributed to Borrower and may be disbursed by Borrower in its discretion.

3. REPRESENTATIONS AND WARRANTIES

Borrower hereby represents and warrants to Lender as follows:

Section 3.01 Title, Legal Status and Authority. Borrower (i) is seised of the Land and Improvements in fee simple and has good and marketable title to each Individual Property, free and clear of all liens, charges, encumbrances, and security interests, except the respective Permitted Encumbrances (as such term is defined in each Instrument); (ii) will forever warrant and defend its title to the Property and the validity, enforceability, and priority of the lien and security interest created by this Instrument against the claims of all persons; (iii) is a limited liability company duly organized, validly existing, and in good standing and qualified to transact business under the laws of its state of organization or incorporation ("**Organization State**") and the state where each Individual Property is located; and (iv) has all necessary approvals, governmental and otherwise, and full power and authority to own its properties (including the Property) and carry on its business.

Section 3.02 Validity of Documents. The execution, delivery and performance of the Documents and the borrowing evidenced by the Notes (i) are within the power of Borrower; (ii) have been authorized by all requisite action; (iii) have received all necessary approvals and consents; (iv) will not violate, conflict with, breach, or constitute (with notice or lapse of time, or both) a default under (1) any law, order or

judgment of any court, governmental authority, or the governing instrument of Borrower or (2) any indenture, agreement, or other instrument to which Borrower is a party or by which it or any of its property is bound or affected; (v) will not result in the creation or imposition of any lien, charge, or encumbrance upon any of its properties or assets except for those in the Instruments; and (vi) will not require any authorization or license from, or any filing with, any governmental or other body (except for the recordation of the Instruments, the Assignments and Uniform Commercial Code (“U.C.C.”) filings). The Documents constitute legal, valid, and binding obligations of Borrower.

Section 3.03 Litigation. There is no action, suit, or proceeding, judicial, administrative, or otherwise (including any condemnation or similar proceeding), pending or, to the best knowledge of Borrower, threatened or contemplated against, or affecting, any Individual Property or Borrower which would have a material adverse effect on any Individual Property or Borrower’s ability to perform its obligations.

Section 3.04 Status of Property.

(a) The Land and Improvements are not located in an area identified by the Secretary of Housing and Urban Development, or any successor, as an area having special flood hazards pursuant to the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, or the National Flood Insurance Reform Act of 1994, as each have been or may be amended, or any successor law (collectively, the “**Flood Acts**”) or, if located within any such area, Borrower has and will maintain the insurance prescribed in Section 4.06 below.

(b) Borrower has all necessary (i) certificates, licenses, and other approvals, governmental and otherwise, for the operation of the Property and the conduct of its business and (ii) zoning, building code, land use, environmental and other similar permits or approvals, all of which are currently in full force and effect and not subject to revocation, suspension, forfeiture, or modification. The Property and its use and occupancy is in compliance with all Laws and Borrower has received no notice of any violation or potential violation of the Laws which has not been remedied or satisfied.

(c) Each Individual Property is served by all utilities (including water and sewer) required for its use.

(d) All public roads and streets necessary to serve each Individual Property for its use have been completed, are serviceable, are legally open, and have been dedicated to and accepted by the appropriate governmental entities.

(e) Each Individual Property is free from damage caused by fire or other casualty.

(f) All costs and expenses for labor, materials, supplies, and equipment used in the construction of the Improvements have been paid in full except for the Permitted Encumbrances.

(g) Borrower owns and has paid in full for all furnishings, fixtures, and equipment (other than tenants’ property) required for the operation of the each Individual Property as a hotel, free of all security interests, liens, or encumbrances except the Permitted Encumbrances and those created by the Instruments.

(h) Each Individual Property is assessed for real estate tax purposes as one or more wholly independent tax lot(s), separate from any adjoining land or improvements, and no other land or improvements are assessed and taxed together with any of the Individual Properties.

Section 3.05 Tax Status of Borrower. Borrower is a “disregarded entity” as defined in Section 1.1445-2(b)(2)(iii) of the Income Tax Regulations issued under the Internal Revenue Code of 1986 and FLLP, the entity that will be responsible for filing and paying income taxes on behalf of Borrower, is neither a “disregarded entity”, nor a “foreign person” within the meaning of Sections 1445 and 7701 of the Internal Revenue Code of 1986.

Section 3.06 Bankruptcy and Equivalent Value. No bankruptcy, reorganization, insolvency, liquidation, or other proceeding for the relief of debtors has been instituted by or against any of the Recourse Parties. Borrower has received reasonably equivalent value for granting the Instruments.

Section 3.07 Disclosure. Borrower has disclosed to Lender all material facts and has not failed to disclose any material fact that could cause any representation or warranty made herein to be materially misleading. There has been no adverse change in any condition, fact, circumstance, or event that would make any such information materially inaccurate, incomplete or otherwise misleading.

Section 3.08 Illegal Activity. No portion of the Property has been or will be purchased, improved, fixtured, equipped or furnished with proceeds of any illegal activity and, to the best of Borrower’s knowledge, there are no illegal activities at or on the Property.

Section 3.09 OFAC Lists. (i) Neither Borrower, nor any persons or entities holding any legal or beneficial interest whatsoever in Borrower (whether directly or indirectly), are named on any list of persons, entities, and governments issued by the Office of Foreign Assets Control of the United States Department of the Treasury (“**OFAC**”) pursuant to Executive Order 13224 – Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism (“**Executive Order 13224**”), as in effect on the date hereof, or any similar list issued by OFAC or any other department or agency of the United States of America (collectively, the “**OFAC Lists**”); provided, however, that (A) with respect to individual beneficiaries of any governmental plans or employee benefit plans holding interests in Borrower (collectively, the “**Individual Beneficiaries**”), the foregoing representations and warranties are limited to Borrower’s actual knowledge, and (B) with respect to individual shareholders of any publicly traded company holding an interest in Borrower (collectively, the “**Individual Shareholders**”), the foregoing representations and warranties are limited to Borrower’s actual knowledge; (ii) neither Borrower, nor any persons or entities holding any legal or beneficial interest whatsoever in Borrower (whether directly or indirectly), are included in, owned by, controlled by, acting for or on behalf of, providing assistance, support, sponsorship, or services of any kind to, or otherwise associated with any of the persons or entities referred to or described in the OFAC Lists; provided, however, that (A) with respect to any Individual Beneficiaries holding a interests in Borrower, the foregoing representations and warranties are limited to Borrower’s actual knowledge, and (B) with respect to any Individual Shareholders holding interests in Borrower, the foregoing representations and warranties are limited to Borrower’s actual knowledge; (iii) neither any guarantor, nor any persons or entities holding any legal or beneficial interest whatsoever in any guarantor (whether directly or indirectly), are named on any OFAC Lists; provided, however, that (A) with respect to any Individual Beneficiaries holding interests in any guarantor, the foregoing representations and warranties are limited to Borrower’s actual knowledge, and (B) with respect to any Individual Shareholders holding interests in any guarantor, the foregoing representations and warranties are limited to Borrower’s actual knowledge; and (iv) neither Borrower nor any guarantor has knowingly conducted business with or engaged in any transaction with any person or entity named on any of the OFAC Lists or any person or entity included in, owned by, controlled by, acting for or on behalf of, providing assistance, support, sponsorship, or services of any kind to, or otherwise associated with any of the persons or entities referred to or described in the OFAC Lists.

Section 3.10 Property as Single Asset. (i) Borrower's only asset is the Property, (ii) while the Loan remains outstanding, Borrower shall not own any assets in addition to the Property (other than assets used in connection with the ownership or operation of the Property), and (iii) the Property generates, either directly or indirectly, substantially all of the gross income of the Borrower and there is no substantial business being conducted, either directly or indirectly, by the Borrower other than the business of owning the Property and the activities incidental thereto.

Section 3.11 Franchise Agreement. Each Franchise Agreement is in full force and effect and there is no default, breach or violation existing thereunder by any party thereto and no event has occurred (other than payments due but not yet delinquent) that, with the passage of time or the giving of notice, or both, would constitute a default, breach or violation by any party thereunder.

Section 3.12 Management Agreement. Each Management Agreement is in full force and effect and there is no default, breach or violation existing thereunder by any party thereto and no event has occurred (other than payments due but not yet delinquent) that, with the passage of time or the giving of notice, or both, would constitute a default, breach or violation by any party thereunder.

Section 3.13 Noncontravention. Neither the execution and delivery of the Documents, the Borrower's performance thereunder, the recordation of the Instruments, nor the exercise of any remedies under the Instruments or any other Documents, will adversely affect Borrower's rights under the Franchise Agreement, the Management Agreement, or any of the certificates, licenses or permits referenced in the Documents, except as otherwise expressly contemplated by the Documents.

Section 3.14 SPE Requirements. Borrower is in compliance with the special purpose entity provisions (the "SPE Requirements") set forth on Exhibit C attached hereto.

4. COVENANTS AND AGREEMENTS

Borrower covenants and agrees with Lender as follows:

Section 4.01 Payment of Obligations. Borrower shall timely pay and cause to be performed the Obligations (as such term is defined in the Instruments).

Section 4.02 Continuation of Existence. Borrower shall not (a) dissolve, terminate, or otherwise dispose of, directly, indirectly or by operation of law, all or substantially all of its assets; (b) reorganize or change its legal structure without Lender's prior written consent, except as otherwise expressly permitted under Section 5.01 below; (c) change its name, address, or the name under which Borrower conducts its business without promptly notifying Lender; or (d) do anything to cause the representations in Section 3.02 to become untrue.

Section 4.03 Taxes and Other Charges.

(a) Payment of Assessments. Borrower shall pay when due all taxes, liens, assessments, utility charges (public or private and including sewer fees), ground rents, maintenance charges, dues, fines, impositions, and public and other charges of any character (including penalties and interest) assessed against, or which could become a lien against, the Property ("**Assessments**") and in all events prior to the date any fine, penalty, interest or charge for nonpayment may be imposed. Borrower shall provide Lender with receipts evidencing payments of real estate taxes within thirty (30) days after their due date.

(b) Right to Contest. So long as no Event of Default (defined below) has occurred, Borrower may, prior to delinquency and at its sole expense, contest any Assessment, provided that, for any Assessment in excess of \$50,000 and/or any Assessment that remains unpaid for in excess of ninety (90) days after the date any fine, penalty, interest or charge for nonpayment may be imposed, Borrower's obligation to pay the Assessment as required above shall not be changed or extended unless (i) Borrower gives Lender prior written notice of its intent to contest an Assessment; (ii) Borrower demonstrates to Lender's reasonable satisfaction that (A) the applicable Individual Property will not be sold to satisfy the Assessment prior to the final determination of the legal proceedings, (B) Borrower has taken such actions as are required or permitted to accomplish a stay of any such sale, and (C) Borrower has either (1) furnished a bond or surety (satisfactory to Lender in form and amount) sufficient to prevent a sale of the applicable Individual Property or (2) at Lender's option, deposited one hundred fifty percent (150%) of the full amount necessary to pay any unpaid portion of the Assessments with Lender; and (iii) such proceeding shall be permitted under any other instrument to which Borrower or the applicable Individual Property is subject (whether superior or inferior to this Instrument); provided, however, that the foregoing shall not restrict the contesting of any income taxes, franchise taxes, ground rents, maintenance charges, and utility charges.

(c) Documentary Stamps and Other Charges. Borrower shall pay all taxes, assessments, charges, expenses, costs and fees (including registration and recording fees and revenue, transfer, stamp, intangible, and any similar taxes) (collectively, the "**Transaction Taxes**") required in connection with the making and/or recording of the Documents. If Borrower fails to pay the Transaction Taxes after demand, Lender may (but is not obligated to) pay these and Borrower shall reimburse Lender on demand for any amount so paid with interest at the applicable interest rate specified in the Note, which shall be the Default Rate unless prohibited by Laws.

(d) Changes in Laws Regarding Taxation. If any law (i) deducts from the value of real property for the purpose of taxation any lien or encumbrance thereon, (ii) taxes deeds of trust or debts secured by deeds of trust for federal, state or local purposes or changes the manner of the collection of any such existing taxes, and/or (iii) imposes a tax, either directly or indirectly, on any of the Documents or the Obligations, Borrower shall, if permitted by law, pay such tax within the statutory period or within twenty (20) days after demand by Lender, whichever is less; provided, however, that if, in the opinion of Lender, Borrower is not permitted by law to pay such taxes, Lender shall have the option to declare the Obligations immediately due and payable (without any Prepayment Premium) upon one hundred twenty (120) days' notice to Borrower.

Section 4.04 Defense of Title, Litigation and Rights under Documents. Borrower shall forever warrant, defend and preserve Borrower's title to the Property, the validity, enforceability and priority of this Instruments and the lien or security interest created thereby, and any rights under the Documents of Lender and/or any trustee under any Instrument against the claims of all persons, and shall promptly notify Lender and any trustee of any such claims. Lender and/or any trustee (whether or not named as a party to such proceedings) is authorized and empowered (but shall not be obligated) to take such additional steps as it may deem necessary or proper for the defense of any such proceeding or the protection of the lien, security interest, validity, enforceability, or priority of the applicable Instrument, title to the Property, or any rights of Lender and/or any trustee under the Documents, including the employment of counsel, the prosecution and/or defense of litigation, the compromise, release, or discharge of such adverse claims, the purchase of any tax title, the removal of any such liens and security interests, and any other actions Lender and/or any trustee deems necessary to protect its or their interests. Borrower authorizes Lender and/or any trustee to take any actions required to be taken by Borrower, or permitted to be taken by Lender and/or trustee, in the Documents in the name and on behalf of Borrower. Borrower shall reimburse Lender and the trustee on demand for all expenses (including reasonable attorneys' fees) incurred in connection with the foregoing and Lender's or trustee's exercise of its or their

rights under the Documents. All such expenses of Lender and/or any trustee, until reimbursed by Borrower, shall be part of the Obligations, bear interest from the date of demand at the Default Rate (as defined in the Notes) and shall be secured by the Instruments.

Section 4.05 Compliance With Laws and Operation and Maintenance of Property.

(a) Repair and Maintenance. Borrower will operate and maintain the Property in good order, repair, and operating condition. Borrower will promptly make all necessary repairs, replacements, additions, and improvements necessary to ensure that the Property shall not in any way be diminished or impaired. Borrower will not cause or allow any portion of the Property to be misused, wasted, or to deteriorate and Borrower will not abandon the Property. No new building, structure, or other improvement shall be constructed on the Land nor shall any material part of the Improvements be removed, demolished, or structurally or materially altered, without Lender's prior written consent.

(b) Replacement of Property. Borrower will keep the Property fully equipped and will replace all worn out or obsolete personal property in a commercially reasonable manner with comparable fixtures or personal property. Borrower will not, without Lender's prior written consent, remove any personal property covered by any Instrument unless the same is replaced by Borrower in a commercially reasonable manner with a comparable article (i) owned by Borrower free and clear of any lien or security interest (other than the Permitted Encumbrances and those created by any Instrument) or (ii) leased by Borrower (A) with Lender's prior written consent or (B) if the replaced personal property was either (x) leased at the time of execution of this Agreement, or (y) photocopiers and postage meter machines.

(c) Compliance with Laws. Borrower shall comply with and shall cause each Individual Property to be maintained, used, and operated in compliance (or, in the case of the Americans with Disabilities Act of 1990, substantially comply or substantial compliance) with all (i) present and future laws, Environmental Laws (defined below), ordinances, regulations, rules, orders and requirements (including zoning and building codes) of any governmental or quasi-governmental authority or agency applicable to Borrower or applicable to the Individual Property (collectively, the "Laws"); (ii) orders, rules, and regulations of any regulatory, licensing, accrediting, insurance underwriting or rating organization, or other body exercising similar functions; (iii) duties or obligations of any kind imposed under any Permitted Encumbrance or by law, covenant, condition, agreement, or easement, public or private; and (iv) policies of insurance at any time in force with respect to the Property. If proceedings are initiated or Borrower receives notice that Borrower or the Property is not in compliance with any of the foregoing, Borrower will promptly send Lender notice and a copy of the proceeding or violation notice. Without limiting Lender's rights and remedies under the Documents or otherwise, if Borrower or the Property is not in compliance in any material respect with all Laws, Lender may impose additional requirements upon Borrower including monetary reserves or financial equivalents.

(d) Zoning and Title Matters. Borrower shall not, without Lender's prior written consent, (i) initiate or support any zoning reclassification of any Individual Property or variance under existing zoning ordinances; (ii) modify or supplement any of the Permitted Encumbrances; (iii) impose any restrictive covenants or encumbrances upon the Property; (iv) execute or file any subdivision plat affecting any Individual Property; (v) consent to the annexation of any Individual Property to any municipality; (vi) permit any Individual Property to be used by the public or any person in a way that might make a claim of adverse possession or any implied dedication or easement possible; (vii) cause or permit any Individual Property to become a non-conforming use under zoning ordinances or any present or future non-conforming use of any Individual Property to be discontinued; or (viii) fail to comply with the terms of the Permitted Encumbrances.

Section 4.06 Insurance.

(a) Property and Time Element Insurance. Borrower shall keep the Property insured for the benefit of Borrower and Lender (with Lender named as mortgagee) by (i) a special form property insurance policy with an agreed amount endorsement for full replacement cost (defined below) without any coinsurance provisions or penalties, or the broadest form of coverage available, in an amount sufficient to prevent Lender from ever becoming a coinsurer under the policy or Laws, and with a deductible not to exceed One Hundred Thousand Dollars (\$100,000.00); provided, however, that the deductible for wind and earthquake insurance shall be five percent (5%) of the total insured value of each Individual Property; (ii) a policy or endorsement insuring against acts of terrorism; (iii) a policy or endorsement providing business income insurance (including business interruption insurance, and extra expense insurance and/or rent insurance) on an actual loss sustained basis in an amount equal to at least one (1) year's total income from each Individual Property including all Rents (as defined in the Instruments) plus all other pro forma annual income such as percentage rent and tenant reimbursements of fixed and operating expenses, which business interruption insurance shall also provide coverage as aforesaid for any additional hazards as may be required pursuant to the terms of the Documents; (iv) a policy or endorsement insuring against damage by flood if any Individual Property is located in a Special Flood Hazard Area identified by the Federal Emergency Management Agency or any successor or related government agency as a 100 year flood plain currently classified as Flood Insurance Rate Map Zones "A", "AO", "AH", "A1-A30", "AE", "A99", "V", "V1-V30", and "VE" in an amount equal to the allocated loan amount for such Individual Property; (v) a policy or endorsement covering against damage or loss from (A) sprinkler system leakage and (B) boilers, boiler tanks, HVAC systems, heating and air-conditioning equipment, pressure vessels, auxiliary piping, and similar apparatus, in the amount reasonably required by Lender; (vi) during the period of any construction, repair, restoration, or replacement of any Individual Property, a standard builder's risk policy with extended coverage in an amount at least equal to the full replacement cost of such Individual Property, and worker's compensation, in statutory amounts to the extent such coverage is not provided by Manager or the builder; and (vii) a policy or endorsement covering against damage or loss by earthquake and other natural phenomenon in the amounts reasonably required by Lender. "**Full replacement cost**" shall mean the one hundred percent (100%) replacement cost of the applicable Individual Property, without allowance for depreciation and exclusive of the cost of excavations, foundations, footings, and value of land, and shall be subject to verification by Lender. Full replacement cost will be determined, at Borrower's expense, periodically upon policy expiration or renewal by the insurance company or an appraiser, engineer, architect, or contractor approved by said company and Lender.

(b) Liability and Other Insurance. Borrower shall maintain commercial general liability insurance with per occurrence limits of \$1,000,000, a products/completed operations limit of \$2,000,000, and a general aggregate limit of \$2,000,000, with an excess/umbrella liability policy of not less than \$10,000,000 per occurrence and annual aggregate covering Borrower, with Lender named as an additional insured, against claims for bodily injury or death or property damage occurring in, upon, or about the Property or any street, drive, sidewalk, curb, or passageway adjacent thereto. The insurance policies shall also include operations and blanket contractual liability coverage which insures contractual liability under the indemnifications set forth in Section 7 below (but such coverage or the amount thereof shall in no way limit such indemnifications). Upon request, Borrower shall also carry additional insurance or additional amounts of insurance covering Borrower or the Property as Lender shall reasonably require.

(c) Form of Policy. All insurance required under this Section shall be fully paid for, non-assessable, and the policies shall contain such provisions, endorsements, and expiration dates as Lender shall reasonably require. The policies shall be issued by insurance companies authorized to do business in the Property States, approved by Lender, and must have and maintain a current financial strength rating of "A-, X" (or higher) from A.M. Best or equivalent (or if a rating by A.M. Best is no longer available, a

similar rating from a similar or successor service). In addition, all policies shall (i) include a standard mortgagee clause, without contribution, in the name of Lender, (ii) provide that they shall not be canceled, amended, or materially altered (including reduction in the scope or limits of coverage) without at least thirty (30) days' prior written notice to Lender except in the event of cancellation for non-payment of premium, in which case only ten (10) days' prior written notice will be given to Lender, and (iii) include a waiver of subrogation clause substantially equivalent to the following: "The Company may require from the Insured an assignment of all rights of recovery against any party for loss to the extent that payment therefor is made by the Company, but the Company shall not acquire any rights of recovery which the Insured has expressly waived prior to loss, nor shall such waiver affect the Insured's rights under this policy".

(d) Original Policies. Borrower shall deliver to Lender (i) certificates evidencing all policies (and renewals) required under this Section and (ii) receipts evidencing payment of all premiums on such policies at least thirty (30) days prior to their expiration. If original and renewal policies are unavailable or if coverage is under a blanket policy, Borrower shall deliver duplicate originals or original ACORD 28 (2003/10) and ACORD 25-S certificates (or equivalent certificates) evidencing that such policies are in full force and effect.

(e) General Provisions. Borrower shall not carry separate or additional insurance concurrent in form or contributing in the event of loss with that required under this Section unless endorsed in favor of Lender as per this Section and approved by Lender in all respects. In the event of foreclosure of any Instrument or other transfer of title or assignment of any Individual Property in extinguishment, in whole or in part, of the Obligations, all right, title, and interest of Borrower in and to all policies of insurance then in force regarding the Property and all proceeds payable thereunder and unearned premiums thereon shall immediately vest in the purchaser or other transferee of any Individual Property. No approval by Lender of any insurer shall be construed to be a representation, certification, or warranty of its solvency. No approval by Lender as to the amount, type, or form of any insurance shall be construed to be a representation, certification, or warranty of its sufficiency. Borrower shall comply with all insurance requirements and shall not cause or permit any condition to exist which would be prohibited by any insurance requirement or would invalidate the insurance coverage on the Property.

(f) Waiver of Subrogation. A waiver of subrogation shall be obtained by Borrower from its insurers and, consequently, Borrower for itself, and on behalf of its insurers, hereby waives and releases any and all right to claim or recover against Lender, its officers, employees, agents and representatives, for any loss of or damage to Borrower, other persons, the Property, Borrower's property or the property of other persons from any cause required to be insured against by the provisions of this Agreement or otherwise insured against by Borrower.

Section 4.07 Damage and Destruction of Property.

(a) Borrower's Obligations. If any damage to, loss, or destruction of any Individual Property occurs (any "**Damage**"), (i) Borrower shall promptly notify Lender and take all necessary steps to preserve any undamaged part of such Individual Property and (ii) if the insurance proceeds are made available for Restoration (defined below) (but regardless of whether any proceeds are sufficient for Restoration), Borrower shall promptly commence and diligently pursue to completion the restoration, replacement, and rebuilding of the applicable Individual Property as nearly as possible to its value and condition immediately prior to the Damage or a Taking (defined below) in accordance with plans and specifications approved by Lender ("**Restoration**"). Borrower shall comply with other reasonable requirements established by Lender to preserve the security under the Instruments.

(b) Lender's Rights. If any Damage occurs and some or all of it is covered by insurance, then (i) Lender may, but is not obligated to, make proof of loss if not made promptly by Borrower and Lender is authorized and empowered by Borrower to settle, adjust, or compromise any claims for the Damage; (ii) each insurance company concerned is authorized and directed to make payment directly to Lender for the Damage; and (iii) Lender may apply the insurance proceeds in any order it determines (1) to reimburse Lender for all Costs (defined below) related to collection of the proceeds and (2) subject to Section 4.07(c) and, if the Damage does not satisfy the conditions of Section 4.07(c), at Lender's option, to (A) payment (without any Prepayment Premium) of all or part of the Obligations, whether or not then due and payable, in the order determined by Lender (provided that if any Obligations remain outstanding after this payment, the unpaid Obligations shall continue in full force and effect and Borrower shall not be excused in the payment thereof); (B) the cure of any default under the Documents; or (C) the Restoration. Notwithstanding the foregoing, Borrower shall have the right to settle, adjust or compromise any claim for Damage if the total amount of such claim is less than \$2,000,000 for the affected Individual Property, provided, that, (x) if the total amount of such claim is less than \$500,000, Borrower promptly uses the full amount of such insurance proceeds for Restoration of the Damage and provides evidence thereof to Lender in a manner acceptable to Lender, and (y) if the total amount of such claim equals or exceeds \$500,000, all such insurance proceeds shall be paid directly to Lender to be held and applied or disbursed as provided in this Section 4.07. Any insurance proceeds held by Lender shall be held without the payment of interest thereon. Notwithstanding anything in this Agreement or at law or in equity to the contrary, none of the insurance proceeds paid to Lender shall be deemed trust funds and Lender may dispose of these proceeds as provided in this Section. Borrower expressly assumes all risk of loss from any Damage, whether or not insurable or insured against.

(c) Application of Proceeds to Restoration. Lender shall make the Net Proceeds (defined below) available to Borrower for Restoration if: (i) there shall then be no Event of Default; (ii) Lender shall be satisfied that Restoration can and will be completed within one (1) year after the Damage occurs and at least nine (9) months prior to the maturity of the Loan, (iii) Borrower shall have entered into a general construction contract acceptable in all respects to Lender for Restoration, which contract must include provision for retainage of not less than ten percent (10%) until final completion of the Restoration; and (iv) in Lender's reasonable judgment, after Restoration has been completed the net cash flow of the applicable Individual Property will be sufficient to cover all costs and operating expenses of such Individual Property, including payments due and reserves required under the Documents for such Individual Property. Notwithstanding any provision of this Agreement to the contrary, Lender shall not be obligated to make any portion of the Net Proceeds available for Restoration (whether as a result of Damage or a Taking) unless, at the time of the disbursement request, Lender has determined in its reasonable discretion that (y) Restoration can be completed at a cost which does not exceed the aggregate of the remaining Net Proceeds and any funds deposited with Lender by Borrower ("**Additional Funds**") and (z) the aggregate of any loss of rental income insurance proceeds which the carrier has acknowledged to be payable ("**Rent Loss Proceeds**") and any funds deposited with Lender by Borrower are sufficient to cover all costs and operating expenses of the applicable Individual Property, including payments due and reserves required under the Documents for such Individual Property.

(d) Disbursement of Proceeds. If Lender elects or is required to make insurance proceeds or the Award (defined below), as the case may be, available for Restoration, Lender shall, through a disbursement procedure established by Lender, periodically (and, in any event, within ten (10) Business Days (defined in the Note) after submission by Borrower to Lender of the required documentation) make available to Borrower in installments the net amount of all insurance proceeds or the Award, as the case may be, received by Lender after deduction of all reasonable costs and expenses incurred by Lender in connection with the collection and disbursement of such proceeds ("**Net Proceeds**") and, if any, the Additional Funds. The amounts periodically disbursed to Borrower shall be based upon the amounts currently due under the construction contract for Restoration and Lender's receipt of (i) appropriate lien

waivers, (ii) a certification of the percentage of Restoration completed by an architect or engineer acceptable to Lender, and (iii) title insurance protection against materialmen's and mechanics' liens. At Lender's election, a disbursing agent selected by Lender shall disburse such funds, and Borrower shall pay such agent's reasonable fees and expenses. The Net Proceeds, Rent Loss Proceeds, and any Additional Funds shall constitute additional security for the Loan and Borrower shall execute, deliver, file and/or record, at its expense, such instruments as Lender requires to grant to Lender a perfected, first-priority security interest in these funds. If the Net Proceeds are made available for Restoration and (x) Borrower refuses or fails to complete the Restoration, (y) an Event of Default occurs, or (z) the Net Proceeds or Additional Funds are not applied to Restoration, then any undisbursed portion may, at Lender's option, be applied to the Obligations in any order of priority, and any application to principal shall be deemed a voluntary prepayment subject to the Prepayment Premium.

Section 4.08 Condemnation.

(a) Borrower's Obligations. Borrower will promptly notify Lender of any threatened or instituted proceedings for the condemnation or taking by eminent domain of any Individual Property including any change in any street (whether as to grade, access, or otherwise) (a "**Taking**"). Borrower shall, at its expense, (i) diligently prosecute these proceedings, (ii) deliver to Lender copies of all papers served in connection therewith, and (iii) if the amount of the Award is reasonably expected to exceed \$250,000, consult and cooperate with Lender in the handling of these proceedings. If the amount of the Award is reasonably expected to exceed \$1,000,000, no settlement of these proceedings shall be made by Borrower without Lender's prior written consent. Lender may participate in these proceedings (but shall not be obligated to do so) and Borrower will sign and deliver all instruments requested by Lender to permit this participation.

(b) Lender's Rights to Proceeds. All condemnation awards, judgments, decrees, or proceeds of sale in lieu of condemnation ("**Award**") are assigned and shall be paid to Lender. Borrower authorizes Lender to collect and receive them, to give receipts for them, to accept them in the amount received without question or appeal, and/or to appeal any judgment, decree, or Award. Borrower will sign and deliver all instruments requested by Lender to permit these actions.

(c) Application of Award. Lender may apply any Award in any order it determines (1) to reimburse Lender for all Costs related to collection of the Award and (2) subject to Section 4.08(d) and, if the Award does not satisfy the conditions of Section 4.08(d), at Lender's option, to (A) payment (without any Prepayment Premium) of all or part of the Obligations, whether or not then due and payable, in the order determined by Lender (provided that if any Obligations remain outstanding after this payment, the unpaid Obligations shall continue in full force and effect and Borrower shall not be excused in the payment thereof); (B) the cure of any default under the Documents; or (C) the Restoration. If Borrower receives any Award, Borrower shall promptly deliver such Award to Lender. Notwithstanding anything in this Instrument or at law or in equity to the contrary, none of the Award paid to Lender shall be deemed trust funds and Lender may dispose of these proceeds as provided in this Section.

(d) Application of Award to Restoration. Lender shall permit the application of the Award to Restoration if: (i) no more than ten percent (10%) of the land constituting the Individual Property is taken, such land is located along the perimeter or periphery of the Individual Property and no portion of the Improvements is located on such land, (ii) the amount of the loss does not exceed \$500,000; (iii) the Taking does not affect access to such Individual Property from any public right-of-way in a material adverse manner; (iv) there is no Event of Default at the time of the Taking or the application of the Award; (v) after Restoration, such Individual Property and its use will be in compliance with all Laws; (vi) in Lender's reasonable judgment, Restoration is practical and can be completed within one (1) year after the Taking and at least nine (9) months prior to the maturity of the Loan; (vii) the Tenants listed in

Exhibit G (“**Restaurant Tenants**”) agree in writing to continue their Leases without abatement of rent or are replaced by tenants with Leases of equal economic value; (viii) Borrower shall have entered into a general construction contract acceptable in all respects to Lender for Restoration, which contract must include provision for retainage of not less than ten percent (10%) until final completion of the Restoration; and (ix) in Lender’s reasonable judgment, after Restoration has been completed the net cash flow of the applicable Individual Property will be sufficient to cover all costs and operating expenses of such Individual Property, including payments due and reserves required under the Documents. Any portion of the Award that is in excess of the cost of any Restoration permitted above, may, in Lender’s sole discretion, be applied against the Obligations or paid to Borrower. If the Award is disbursed to Borrower under the provisions of this Section 4.08(d), then such Award shall be disbursed to Borrower in accordance with the terms and conditions of Section 4.07(d).

(e) Effect on the Obligations. Notwithstanding any Taking, Borrower shall continue to pay and perform the Obligations as provided in the Documents. Any reduction in the Obligations due to application of the Award shall take effect only upon Lender’s actual receipt and application of the Award to the Obligations. If the applicable Individual Property shall have been foreclosed, sold pursuant to any power of sale granted hereunder, or transferred by deed-in-lieu of foreclosure prior to Lender’s actual receipt of the Award, Lender may apply the Award received to the extent of any deficiency upon such sale and Costs incurred by Lender in connection with such sale.

Section 4.09 Liens and Liabilities. Borrower shall pay, bond, or otherwise discharge all claims and demands of mechanics, materialmen, laborers, and others which, if unpaid, might result in a lien or encumbrance on the Property or the Rents (collectively, “**Liens**”), provided that Borrower shall not be in violation of this sentence so long as the Lien shall be discharged (by payment, bonding or otherwise) within sixty (60) days after the claim is made. Borrower shall, at its sole expense, do everything necessary to preserve the lien and security interest created by the Instruments and their priority. Nothing in the Documents shall be deemed or construed as constituting the consent or request by Lender or any trustee, express or implied, to any contractor, subcontractor, laborer, mechanic or materialman for the performance of any labor or the furnishing of any material for any improvement, construction, alteration, or repair of the Property. Borrower further agrees that neither Lender nor any trustee stands in any fiduciary relationship to Borrower. Any contributions made, directly or indirectly, to Borrower by or on behalf of any of its partners, members, principals or any party related to such parties shall be treated as equity and shall be subordinate and inferior to the rights of Lender under the Documents.

Section 4.10 Leasing Restrictions.

(a) With respect to the Primary Lease, Borrower shall not (and Lessee, by its joinder to this Agreement, agrees not to), without first obtaining Lender’s prior written consent, (i) amend or modify the Primary Lease, (ii) extend or renew the Primary Lease, (iii) terminate or accept the surrender of the Primary Lease, (iv) enter into any new Primary Lease, or (v) grant any consent or approval required under the Primary Lease that is inconsistent with the terms of the Documents.

(b) With respect to any Restaurant Lease, Borrower shall not, without first obtaining Lender's prior written consent, (1) amend or modify any Restaurant Lease, (2) extend or renew (except in accordance with mandatory actions by the lessor under the existing Restaurant Lease provisions, if any) any Restaurant Lease, (3) terminate or accept the surrender of any Restaurant Lease, (4) enter into any new Restaurant Lease, or (5) accept any (i) prepayment of rent more than one (1) month in advance, (ii) termination fee, or (iii) similar payment.

(c) With respect to any other Lease that is not a Restaurant Lease or the Primary Lease, Borrower or Lessee may (1) enter into a new Lease (if such new Lease does not give the tenant any rights,

whether in the form of expansion rights, rights of first refusal to lease or purchase, or otherwise, relating to property which is not part of the respective Individual Property and/or would require Borrower, Lessee and/or Lender to possess or control any property other than the respective Individual Property to honor such rights and/or would grant such tenant any purchase rights with respect to any portion of the Property), (2) terminate any Lease, or (3) amend any Lease (if such amendment does not give the tenant any rights, whether in the form of expansion rights, rights of first refusal to lease or purchase, or otherwise, relating to property which is not part of the respective Individual Property and/or would require Borrower, Lessee and/or Lender to possess or control any property other than the respective Individual Property to honor such rights and/or would grant such tenant any purchase rights with respect to any portion of the Property), provided, that, all decisions made and all actions taken by Borrower or Lessee pursuant to subsections c (1), (2) and (3) above represent prudent business practices for the benefit of each Individual Property and are on market terms and rents (based on the type, quality and location of each Individual Property) and are bona fide, binding contracts, duly authorized and executed with third-party tenants unrelated to Borrower, Lessee, any of the Recourse Parties or any of their affiliates. For purposes of this subsection, Manager, any of its subsidiaries and any successor third-party, unaffiliated management company shall not be deemed to be related or affiliated with Lessee or any of the Recourse Parties by virtue of being Manager. All free rent and similar concessions shall be given only at the beginning of the term of the Lease, there shall be no step down or other decrease in base rent payable over the term of the applicable Lease, there shall be no increase in the landlord's obligations to pay operating expenses, taxes or insurance or change in the base year, and there shall be no economic obligations on the landlord under a Lease beyond maintaining the respective Individual Property. Any allowance for tenant improvements shall only be given at the beginning of the term of the Lease.

(d) No portion of the Property shall (1) be leased to any party or entity that uses dry cleaning solvents on the Property or (2) permit the use or storage of hazardous substances in excess of limits allowed by applicable law, rule or regulation.

(e) Lender shall respond to a request from Borrower or Lessee for approval of new leases, lease amendments, lease terminations or any other lease action requiring Lender's approval within fifteen (15) business days after receipt of the items specified below or Lender's right to consent to or approve the request shall be deemed waived, if the request from Borrower or Lessee complies with the following requirements (the "Special Notice Provisions"):

- (i) The request must be in writing, and copies of the request must be sent to both Lender's servicing and law departments in accordance with the notice provisions of the Documents.
- (ii) The request must contain a blank sheet on the top of it with only the following language appearing in the middle of the sheet in at least as large font as is used in the remainder of Borrower's or Lessee's request: **LENDER MUST RESPOND TO THIS REQUEST WITHIN 15 BUSINESS DAYS FROM THE DATE OF LENDER'S RECEIPT OF THIS NOTICE OR LENDER'S RIGHT TO CONSENT TO OR APPROVE THIS REQUEST SHALL BE DEEMED WAIVED.**
- (iii) Each such request shall include: (1) a servicing fee payable to Lender in the amount of \$500 and a letter wherein Borrower states that it shall pay Lender's reasonable outside legal fees and disbursements, (2) a copy of the applicable Lease or Lease amendment and all documents referenced therein, all work letters,

all floor layouts, all lease guaranties, all documents evidencing any loan to the tenant, and any other documents that shall be necessary or appropriate for Lender to render a decision on Borrower's or Lessee's request, (3) a lease summary setting forth the basic terms of such Lease, and (4) such financial information as is in Borrower's or Lessee's possession regarding the tenant and any guarantor.

In the event Borrower or Lessee fails to comply with the Special Notice Provisions, (i) Lender shall not be required to respond within the specific period of time, (ii) Lender's right to consent to or approve the request will not be deemed waived if Lender fails to respond within the specific period of time, and (iii) Lender shall not be deemed to have consented to or approved the request if Lender fails to respond within the specific period of time. This subsection 4.10(e) is not intended to apply to those particular leasing actions described in subsection 4.10(c) above that do not require Lender approval or consent.

Section 4.11 ERISA.

(a) Borrower understands and acknowledges that, as of the date hereof, the source of funds from which Lender is extending the Loan will include one or more of the following accounts: (i) an "insurance company general account," as that term is defined in Prohibited Transaction Class Exemption ("PTE") 95-60 (60 Fed. Reg. 35925 (Jul. 12, 1995)), as to which Lender meets the conditions for relief in Sections I and IV of PTE 95-60; (ii) pooled and single client insurance company separate accounts, which are subject to the provisions of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"); and (iii) one or more insurance company separate accounts maintained solely in connection with fixed contractual obligations of the insurance company, under which the amounts payable or credited to the plan are not affected in any manner by the investment performance of the separate account.

(b) Borrower represents and warrants to Lender that (i) Borrower is not an "employee benefit plan" as defined in Section 3(3) of ERISA, or a "governmental plan" within the meaning of Section 3(32) of ERISA; (ii) Borrower is not a "party in interest", as defined in Section 3(14) of ERISA, other than as a service provider or an affiliate of a service provider, to any employee benefit plan that has invested in a separate account described in Section 3.11(a)(ii) above, from which funds have been derived to make the Loan, or if so, the execution of the Documents and making of the Loan thereunder do not constitute nonexempt prohibited transactions under ERISA; (iii) Borrower is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans, or if subject to such statutes, is not in violation thereof in the execution of the Documents and the making of the Loan thereunder; (iv) the assets of Borrower do not constitute "plan assets" of one or more plans within the meaning of 29 C.F.R. Section 2510.3-101; and (v) one or more of the following circumstances is true: (1) equity interests in Borrower are publicly offered securities, within the meaning of 29 C.F.R. Section 2510.3-101(b)(2); (2) less than twenty-five percent (25%) of all equity interests in Borrower are held by "benefit plan investors" within the meaning of 29 C.F.R. Section 2510.3-101(f)(2); or (3) Borrower qualifies as an "operating company," a "venture capital operating company" or a "real estate operating company" within the meaning of 29 C.F.R. Section 2510.3-101(c), (d) or (e), respectively.

(c) Borrower shall deliver to Lender such certifications and/or other evidence periodically requested by Lender, in its sole discretion, to verify the representations and warranties in Section 4.11(b) above. Failure to deliver these certifications or evidence, breach of these representations and warranties, or consummation of any transaction which would cause this Instrument or any exercise of Lender's rights under this Instrument to (i) constitute a non-exempt prohibited transaction under ERISA or (ii) violate ERISA or any state statute regulating governmental plans (collectively, a "Violation"), shall be an Event of Default. Notwithstanding anything in the Documents to the contrary, no sale, assignment, or transfer of any direct or indirect right, title, or interest in Borrower or any Individual Property (including creation of a junior lien, encumbrance or leasehold interest) shall be permitted which would, in Lender's opinion,

negate Borrower's representations in this Section or cause a Violation. At least fifteen (15) days before consummation of any of the foregoing, Borrower shall obtain from the proposed transferee or lienholder (i) a certification to Lender that the representations and warranties of this Section 4.11 will be true after consummation and (ii) an agreement to comply with this Section 4.11.

Section 4.12 Environmental Representations, Warranties, and Covenants.

(a) Environmental Representations and Warranties. Borrower represents and warrants, to the best of Borrower's knowledge (after due inquiry and investigation) and additionally based upon the environmental site assessment report of each Individual Property (collectively, the "**Environmental Report**"), that except as fully disclosed in the Environmental Report delivered to and approved by Lender: (i) there are no Hazardous Materials (defined below) or underground storage tanks affecting the Property ("**affecting the Property**" shall mean "in, on, under, stored, used or migrating to or from any Individual Property") except for (A) routine cleaning, janitorial and other materials and supplies necessary to operate each Individual Property for its current use and (B) Hazardous Materials that are (1) in compliance with Environmental Laws (defined below), (2) have all required permits, and (3) are in only the amounts necessary to operate each respective Individual Property; (ii) there are no past, present or threatened Releases (defined below) of Hazardous Materials in violation of any Environmental Law affecting the Property; (iii) there is no past or present non-compliance with Environmental Laws or with permits issued pursuant thereto; (iv) Borrower does not know of, and has not received, any written or oral notice or communication from any person relating to Hazardous Materials affecting any Individual Property; and (v) Borrower has provided to Lender, in writing, all information relating to environmental conditions affecting each Individual Property known to Borrower or contained in Borrower's files. "**Environmental Law**" means any present and future federal, state and local laws, statutes, ordinances, rules, regulations, standards, policies and other government directives or requirements, as well as common law, that apply to Borrower or any Individual Property and relate to Hazardous Materials including the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act. "**Hazardous Materials**" shall mean petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives, flammable materials; radioactive materials; polychlorinated biphenyls ("**PCBs**") and compounds containing them; lead and lead-based paint; Microbial Matter, infectious substances, asbestos or asbestos-containing materials in any form that is or could become friable; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which on the Property is prohibited by any federal, state or local authority; any substance that requires special handling; and any other material or substance now or in the future defined as a "hazardous substance," "hazardous material," "hazardous waste," "toxic substance," "toxic pollutant," "contaminant," or "pollutant" within the meaning of any Environmental Law. "**Release**" of any Hazardous Materials includes any release, deposit, discharge, emission, leaking, spilling, seeping, migrating, pumping, pouring, escaping, dumping, disposing or other movement of Hazardous Materials. "**Microbial Matter**" shall mean the presence of fungi or bacterial matter which reproduces through the release of spores or the splitting of cells, including, but not limited to, mold, mildew and viruses, whether or not such Microbial Matter is living.

(b) Environmental Covenants. Borrower covenants and agrees that: (i) all use and operation of the Property shall be in compliance with all Environmental Laws and required permits; (ii) there shall be no Releases of Hazardous Materials affecting the Property in violation of Environmental Laws; (iii) there shall be no Hazardous Materials affecting the Property except (A) routine cleaning and janitorial supplies, (B) in compliance with all Environmental Laws, (C) in compliance with all required permits, and (D) (1) in only the amounts necessary to operate each respective Individual Property or (2) as shall have been fully disclosed to and approved by Lender in writing; (iv) Borrower shall keep each Individual Property free and clear of all liens and encumbrances imposed by any Environmental Laws due to any act or omission by Borrower or any person (the "**Environmental Liens**"); (v) Borrower shall, at its sole

expense, fully and expeditiously cooperate in all activities performed under Section 4.12(c) including providing all relevant information and making knowledgeable persons available for interviews; (vi) Borrower shall, at its sole expense, (A) perform any environmental site assessment or other investigation of environmental conditions at any Individual Property upon Lender's request based on Lender's reasonable belief that such Individual Property is not in compliance with all Environmental Laws, (B) share with Lender the results and reports and Lender and the Indemnified Parties (defined below) shall be entitled to rely on such results and reports, and (C) complete any remediation of Hazardous Materials affecting any Individual Property or other actions required by any Environmental Laws; (vii) Borrower shall not allow any Tenant or other user of the Property to violate any Environmental Law; (viii) Borrower shall immediately notify Lender in writing after it becomes aware of (A) the presence, Release, or threatened Release of Hazardous Materials affecting any Individual Property, (B) any non-compliance of any Individual Property with any Environmental Laws, (C) any actual or potential Environmental Lien, (D) any required or proposed remediation of environmental conditions relating to any Individual Property, or (E) any written communication or notice from any person relating to Hazardous Materials, or any oral communication relating to or alleging any violation or potential violation of Environmental Law, and (ix) if an Asbestos Operation and Maintenance Plan and any other Operation and Maintenance Plan (collectively, the "**O&M Plan**") is in effect (or required by Lender to be implemented) at the time of the closing of the Loan, then Borrower shall, at its sole expense, implement and continue the O&M Plan (with any modifications required to comply with applicable Laws) until payment and full satisfaction of the Obligations. Any failure of Borrower to perform its obligations under this Section 4.12 shall constitute bad faith waste of the Property.

(c) Lender's Rights. Lender and any person designated by Lender may enter any Individual Property to assess the environmental condition of such Individual Property and its use including (i) conducting any environmental assessment or audit (the scope of which shall be determined by Lender) and (ii) taking samples of soil, groundwater or other water, air, or building materials, and conducting other invasive testing at all reasonable times when (A) a default has occurred under the Documents, (B) Lender reasonably believes that a Release has occurred or such Individual Property is not in compliance with all Environmental Laws, or (C) the Loan is being considered for sale (any out-of-pocket expenses incurred in connection with the entry under clause (C) only shall be at Lender's expense). Borrower shall cooperate with and provide access to Lender and such person.

Section 4.13 Reserve Funds for Replacements of Furniture, Fixtures and Equipment.

- (a) Borrower shall make monthly deposits with Lender to provide a cumulative reserve for the replacement and repair of furniture, fixtures, and equipment, including but not limited to individual rooms, lobby, floor coverings (carpet and pad, floor tiles), window coverings (mini blinds/drapes), multi-purpose rooms, dining rooms, interior repainting, windows, doors, plumbing fixtures (water heaters, sinks, tubs, toilets), kitchen equipment, the water fountains, administrative areas, furniture, and other related equipment required to maintain the quality and life of the property and improvements thereto, to include major capital improvements such as roof replacement, parking lot maintenance, heating, ventilation and air conditioning and other extraordinary exterior replacements or repairs that are necessary over time to uphold the structural integrity of the asset as originally designed, constructed or improved (such items shall be referred to collectively as the "**FF&E**") in the manner set forth in paragraph (b) below.
- (b) Commencing on the first Due Date and continuing regularly thereafter on each Due Date until the payment in full of all sums due under the Notes, Borrower shall deposit monthly with Lender funds (said funds, together with any interest thereon, shall be referred to as

“**Reserve Funds**”) in an amount equal to four percent (4.0%) of the gross revenues for the Property for the calendar month before the immediately trailing calendar month. In the event Borrower fails to make any of said monthly deposits, it shall be a default under the Documents and such default shall become an Event of Default in accordance with the provisions of the Documents. Lender shall, in its sole discretion, determine the amount of interest that shall be earned on the Reserve Funds and all interest earned on the Reserve Funds shall be allocated to Borrower for income tax purposes; provided, however, that said interest shall be held and disbursed as a part of the Reserve Funds.

- (c) Subject to the provisions of this Application and upon satisfaction of the requirements set forth below, Lender shall disburse funds to Borrower from the Reserve Funds to pay the cost of replacement and/or repair of the FF&E serving the Improvements. The disbursement of funds from the Reserve Funds shall be governed by the following requirements:
- (i) All disbursement requests shall be made in writing and shall be subject to approval by Lender, which approval shall not be unreasonably withheld;
 - (ii) Disbursements shall be made no more frequently than one time every calendar quarter (or, if Borrower determines that it reasonably requires additional interim disbursements, Lender shall consider in its reasonable discretion providing up to one additional disbursement per quarter), in minimum increments of not less than \$50,000 and within ten (10) business days after Borrower’s written request therefor;
 - (iii) Disbursement requests shall be accompanied by evidence satisfactory to Lender, including but not limited to copies of paid invoices, canceled checks (where applicable), and lien waivers, that the replacement and/or repair of the FF&E has been completed (A) in accordance with applicable laws and ordinances, (B) without the creation of any security interest in the materials or appliances installed, and (C) in a manner otherwise satisfactory to Lender. Notwithstanding the foregoing requirement to the contrary, for any disbursement request that involves less than \$50,000 per invoice for any individual vendor or service provider and less than \$150,000 per project per Individual Property in the aggregate, Borrower shall only be required to deliver a written statement certified by Borrower that the replacement or repair has been completed in satisfaction of (A) and (B) above, which written statement shall be accompanied by a capital expenditure report in the form attached hereto as Exhibit F. In addition, if requested by Lender in its reasonable discretion, disbursement requests with respect to any capital improvements, the cost of which exceeds \$250,000 per Individual Property and the performance of which could give rise to a lien being recorded against any portion of the Property, shall also be accompanied by an endorsement to Lender’s title policy certifying that there are no liens with respect to the work performed;
 - (iv) Lender, or its designated representatives, shall have the option to inspect the Improvements at Lender’s expense to verify the completion of the replacement and/or repair of the FF&E and any work necessary in connection therewith. Lender’s inspection shall be for the sole purpose of determining whether Lender is willing to disburse funds from the Reserve

Funds and shall not be deemed to be an approval of the quality or adequacy of the completion of the replacement and/or repair of the FF&E or any work necessary in connection therewith. No party shall have the right to assert any claim against Lender as a result of the existence of this inspection option and/or Lender's exercise of (or failure to exercise) its rights in connection with this inspection option; and

- (v) No default, or event which with the passage of time or giving of notice, or both, would constitute a default, shall exist under any of the Loan Documents.
- (d) Subject to the right of Lender to apply the Reserve Funds to amounts outstanding under the Notes and the Documents upon the occurrence of an Event of Default under this Agreement or any of the Documents, all funds remaining in the Reserve Fund shall be paid to Borrower upon the payment in full of all sums due under the Notes, including all principal and interest, Daily Charges, Late Charges, Prepayment Premiums, and other charges, and payment in full of any sums due under the other Documents; provided, however, that this provision shall not apply to payment of the Notes in connection with foreclosure, power of sale, or deed-in-lieu thereof.
- (e) Lender shall have a perfected security interest in the Reserve Funds and any interest thereon as additional security to secure payment of the Notes. The Reserve Funds and any interest thereon shall be held by Lender as additional security for the Notes. Upon the occurrence of an Event of Default under this Agreement or any other Document, Lender shall have the option to apply any or all of the Reserve Funds and any interest thereon to the Notes or as otherwise provided in the Documents. In the event any or all of the Reserve Funds are applied against the outstanding principal balance of the Notes, such application shall be deemed a voluntary prepayment and shall be subject to the Prepayment Premium, but only upon the occurrence of a monetary default under the Documents.

Section 4.14 Inspection. Borrower shall allow Lender and any person designated by Lender to enter upon any Individual Property and conduct tests or inspect such Individual Property at all reasonable times. Borrower shall assist Lender and such person in effecting said inspection.

Section 4.15 Records, Reports, and Audits.

(a) Quarterly Reports. Borrower shall furnish to Lender the following quarterly statements and reports each in form and substance reasonably satisfactory to Lender (1) for the first three (3) quarters of each fiscal year, as soon as available and in no event later than forty-five (45) days after the end of each quarter in question, and (2) for the final quarter of each fiscal year each, as soon as available and in no event later than ninety (90) days after the end of the quarter in question:

(i) An operating statement including income and expenses (before debt service) (including a comparison to the budget and the previous year's position) with both quarterly and year-to-date information, including detailed department and undistributed expense schedules, the overall occupancy and rate, and schedules showing rate and room nights (which schedules shall compare actual to forecast and to the previous year), in each case for each Individual Property;

(ii) A capital expenditure and FF&E expenditure report for each Individual Property in the form attached hereto as Exhibit F;

(iii) A revised budget showing year-end projected occupancy, average rate, profit and loss (before debt service) for each Individual Property; and

(iv) The most recent Smith Travel Accommodations Report (STAR), including each year-end report, showing both penetration and yield versus competitive set.

(b) Annual Reports. Borrower shall furnish Lender annually:

(i) As such is available, but no later than April 30th of any year, a comparative balance sheet showing current annual charges to each account for Borrower;

(ii) As soon as available, but no later than April 30th of any year, financial statements for FLLP and FLTI if such information is not publicly available for the prior year prepared in accordance with generally accepted accounting principles and certified by an authorized person, partner or official;

(iii) As soon as available, but no later than January 31st of any year, a non-audited version of operating statements for the Property for the prior year including income and expenses (before debt service) prepared in accordance with generally accepted accounting principles (uniform system of hotel accounting) and certified by an authorized person, partner or official, together with such additional information as Lender may reasonably request. Audited statements shall be required only following an Event of Default under the Loan Documents and at the sole discretion of the Lender;

(iv) As soon as available, but no later than January 31st of any year, a detailed revenue and expense projection for the next succeeding year by month showing projected occupancy, room rate, gross revenues and expenditures by month (before debt service) for each Individual Property;

(v) As soon as available, but no later than January 31st of any year, a capital improvement budget for the next succeeding year for proposed capital and FF&E expenditures, including the costs of completing any such additions, upgrades, or improvements commenced in a prior fiscal year, itemized by project for each Individual Property;

(vi) As soon as available, but no later than January 31st of any year, a marketing plan for the next succeeding year, describing in narrative form Borrower's intentions for the next fiscal year for the promotion and positioning of the hotel and the food and beverage operations (if any) for each Individual Property; and

(vii) Upon Lender's written request, a schedule of all leases in place for the next succeeding year, including income producing leases and all equipment or financing leases.

(c) Appraisals. Borrower shall furnish to Lender (i) whenever available a duplicate copy of any appraisal in Borrower's possession, and (ii) such other information and market reports as Lender may reasonably request.

(d) Delivery of Reports. All of the reports, statements, and items required under this Section shall be (i) certified as being true, correct, and accurate by an authorized person, partner, or officer of the delivering party or, at the deliverer's option, audited by a Certified Public Accountant; and (ii) satisfactory to Lender in form and substance. If any one report, statement, or item is not received by Lender after the expiration of thirty (30) days after written notice from Lender that such

report, statement or item has not been received by its due date (the “**First Notice**”), a late fee of Four Hundred and No/100 Dollars (\$400.00) per month shall be due and payable by Borrower; provided that, if such report, statement, or item is not received by Lender after the expiration of ten (10) days after delivery of a second written notice from Lender (the “**Second Notice**”), which Second Notice shall not be delivered before the date that is thirty (30) days after delivery of the First Notice, Lender may immediately declare an Event of Default under the Documents. Borrower shall (i) provide Lender with such additional financial, management, or other information regarding Borrower or the Property, as Lender may reasonably request and (ii) upon Lender’s request, deliver all items required under the Loan Documents in an electronic format (i.e. on computer disks or via electronic mail) or by electronic transmission acceptable to Lender.

(e) Examination/Audit. Borrower shall allow Lender or any person designated by Lender to examine, audit, and make copies of all such books and records and all supporting data at the place where these items are located at all reasonable times after reasonable advance notice; provided that no notice shall be required after any Event of Default under the Loan Documents. Borrower shall assist Lender in effecting such examination. Other than during the continuance of an Event of Default, any travel costs associated with Lender’s right to examine, audit and copy shall be borne by Lender. Upon five (5) days’ prior notice, Lender may inspect and make copies of Borrower’s income tax returns with respect to the Property for the purpose of verifying any items referenced in this Section.

Section 4.16 Borrower’s Certificates. Within ten (10) days after Lender’s request, Borrower shall furnish a written certification to Lender and any Investors (defined below) as to (a) the amount of the Obligations outstanding; (b) the interest rate, terms of payment, and maturity date of the Notes; (c) the date to which payments have been paid under the Notes; (d) whether any offsets or defenses exist against the Obligations and a detailed description of any listed; (e) whether all Leases are in full force and effect and have not been modified (or if modified, setting forth all modifications); (f) the date to which the Rents have been paid; (g) whether, to the best knowledge of Borrower, any defaults exist under the Leases and a detailed description of any listed; (h) the security deposit held by Borrower under each Lease and that such amount is the amount required under such Lease; (i) whether there are any defaults (or events which with the passage of time and/or giving of notice would constitute a default) under the Documents and a detailed description of any listed; (j) whether the Documents are in full force and effect; and (k) any other matters reasonably requested by Lender related to the Leases, the Obligations, the Property, or the Documents. Promptly upon Lender’s written request (but no more than three (3) times in any twelve month period), Borrower shall use its best efforts to deliver a written certification to Lender and Investors from Tenants specified by Lender that: (a) their Leases are in full force and effect; (b) there are no defaults (or events which with the passage of time and/or notice would constitute a default) under their Leases and a detailed description of any listed; (c) none of the Rents have been paid more than one month in advance; (d) there are no offsets or defenses against the Rents and a detailed description of any listed; and (e) any other matters reasonably requested by Lender related to the Leases; provided, however, that Borrower shall not have to pay money to a Tenant to obtain such certification, but it will deliver a landlord’s certification for any certification it cannot obtain.

Section 4.17 Full Performance Required; Survival of Warranties. All representations and warranties of Borrower in the Loan application or made in connection with the Loan shall survive the execution and delivery of the Documents and Borrower shall not perform any action, or permit any action to be performed, which would cause any of the warranties and representations of Borrower to become untrue in any manner.

Section 4.18 Additional Security. No other security now existing or taken later to secure the Obligations shall be affected by the execution of the Documents and all additional security shall be held as cumulative. The taking of additional security, execution of partial releases, or extension of the time for

the payment obligations of Borrower shall not diminish the effect and lien of the Instruments and shall not affect the liability or obligations of any maker or guarantor. Neither the acceptance of the Documents nor their enforcement shall prejudice or affect Lender's or any trustee's right to realize upon or enforce any other security now or later held by Lender or trustee. Lender and/or trustee may enforce the Documents or any other security in such order and manner as either of them may determine in its respective discretion.

Section 4.19 Further Acts. Borrower shall take all necessary actions to (i) keep valid and effective the lien and rights of Lender and any trustee under the Documents and (ii) protect the lawful owner of the Documents. Promptly upon request by Lender or trustee, and at Borrower's expense, Borrower shall execute additional instruments and take such actions as Lender and/or any trustee reasonably believes are necessary or desirable to (a) maintain or grant Lender and any trustee a first-priority, perfected lien on the Property, (b) grant to Lender and trustee, to the fullest extent permitted by Laws, the right to foreclose on, or transfer title to, the Property non-judicially, (c) correct any error or omission in the Documents, and (d) effect the intent of the Documents, including filing/recording the Documents, additional mortgages or deeds of trust, financing statements, and other instruments.

Section 4.20 Compliance With Anti-Terrorism Regulations.

(a) Borrower hereby covenants and agrees that neither Borrower nor any guarantor, nor any persons or entities holding any legal or beneficial interest whatsoever in Borrower or any guarantor (whether directly or indirectly), will knowingly conduct business with or engage in any transaction with any person or entity named on any of the OFAC Lists or any person or entity included in, owned by, controlled by, acting for or on behalf of, providing assistance, support, sponsorship, or services of any kind to, or otherwise associated with any of the persons or entities referred to or described in the OFAC Lists.

(b) Borrower hereby covenants and agrees that it will comply at all times with the requirements of Executive Order 13224; the International Emergency Economic Powers Act, 50 U.S.C. Sections 1701-06; the United and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56; the Iraqi Sanctions Act, Pub. L. 101-513, 104 Stat. 2047-55; the United Nations Participation Act, 22 U.S.C. Section 287c; the Antiterrorism and Effective Death Penalty Act, (enacting 8 U.S.C. Section 219, 18 U.S.C. Section 2332d, and 18 U.S.C. Section 2339b); the International Security and Development Cooperation Act, 22 U.S.C. Section 2349 aa-9; the Terrorism Sanctions Regulations, 31 C.F.R. Part 595; the Terrorism List Governments Sanctions Regulations, 31 C.F.R. Part 596; and the Foreign Terrorist Organizations Sanctions Regulations, 31 C.F.R. Part 597 and any similar laws or regulations currently in force or hereafter enacted (collectively, the "**Anti-Terrorism Regulations**").

(c) Borrower hereby covenants and agrees that if it becomes aware or receives any notice that Borrower, any guarantor or the Property, or any person or entity holding any legal or beneficial interest whatsoever (whether directly or indirectly) in Borrower, any guarantor or in the Property, is named on any of the OFAC Lists (such occurrence, an "**OFAC Violation**"), Borrower will immediately (i) give notice to Lender of such OFAC Violation, and (ii) comply with all Laws applicable to such OFAC Violation (regardless of whether the party included on any of the OFAC Lists is located within the jurisdiction of the United States of America), including, without limitation, the Anti-Terrorism Regulations, and Borrower hereby authorizes and consents to Lender's taking any and all steps Lender deems necessary, in its sole discretion, to comply with all Laws applicable to any such OFAC Violation, including, without limitation, the requirements of the Anti-Terrorism Regulations (including the "freezing" and/or "blocking" of assets).

(d) Upon Lender's request from time to time during the term of the Loan, Borrower agrees to deliver a certification confirming that the representations and warranties set forth in Section 3.09 above remain true and correct as of the date of such certificate and confirming Borrower's and any guarantor's compliance with this Section 4.20.

Section 4.21 Compliance with Property as Single Asset. Borrower hereby covenants and agrees that (i) during the term of the Loan, Borrower shall not own any assets in addition to the Property (other than assets used in connection with the ownership or operation of the Property), (ii) each Individual Property shall remain as a single property or project, and (iii) during the term of the Loan, the Property shall generate, either directly or indirectly, substantially all of the gross income of the Borrower and there shall be no substantial business being conducted by the Borrower other than the business of owning the Property and the activities incidental thereto.

Section 4.22 Capital Leases. At no time, shall Borrower enter into (on an aggregate basis) leases for capital goods and/or equipment for the benefit of any Individual Property without Lender's prior written approval if the value of such capital goods and/or equipment, if purchased, would exceed \$600,000 in value.

Section 4.23 Inventory Levels. At all times during the term of the Loan, Borrower shall maintain inventory levels of linens, tableware, kitchen utensils and equipment, and tables, chairs and equipment for the conference center located on each Individual Property which are appropriate for a hotel similar to each respective Individual Property and located in such Individual Property's respective market.

Section 4.24 No Gaming. Each Individual Property shall be operated as a hotel property. The Property shall not be used for the conduct of any gaming operations without Lender's prior written consent (which consent may be given or withheld for any reason or for no reason or given conditionally, in Lender's sole discretion); provided, however, that organizations shall not be prohibited from renting banquet rooms for one-time fundraising events that may involve games of chance conducted in accordance with all applicable laws, and Borrower shall not be prohibited from conducting "casino nights" and similar activities in conjunction with banquets and other meetings at the Property and in accordance with all applicable Laws.

Section 4.25 Management Agreement and Franchise Agreement.

(a) Borrower shall cause the hotel located on each Individual Property to be operated pursuant to the Franchise Agreement and the Management Agreement or successor agreements approved by Lender.

(b) Borrower shall:

- (i) Promptly perform and/or observe in all material respects all of the covenants and agreements required to be performed and observed by it under the Franchise Agreement (or any successor franchise agreement) and the Management Agreement (or any successor management agreement) and do all things necessary to preserve and to keep unimpaired its material rights thereunder;
- (ii) Deliver to Lender copies of all notices of a material nature sent to Borrower by any franchisor (including the Franchisor) pursuant to or relating to the Franchise Agreement (or any successor franchise agreement) within five (5) business days of receipt of the same by Borrower;

- (iii) Promptly notify Lender of any default under the Franchise Agreement (or any successor franchise agreement) or the Management Agreement (or any successor management agreement) of which it is aware; and
 - (iv) Promptly enforce the performance and observance of all of the covenants and agreements required to be performed and/or observed by any franchisor (including the Franchisor) pursuant to or relating to the Franchise Agreement (or any successor franchise agreement) and/or the Manager under the Management Agreement (or any successor management agreement).
- (c) Borrower consents and agrees that it shall not, without Lender's prior written consent:
- (i) Surrender, terminate or cancel the Franchise Agreement (or any successor franchise agreement) or the Management Agreement (or any successor management agreement);
 - (ii) Reduce or consent to the reduction of the term of the Franchise Agreement (or any successor franchise agreement) or the Management Agreement (or any successor management agreement);
 - (iii) Increase or consent to the increase of the amount of any charges under the Franchise Agreement (or any successor franchise agreement) or the Management Agreement (or any successor management agreement); or
 - (iv) Otherwise modify, change, supplement, alter or amend, or waive or release any of its rights and remedies under, the Franchise Agreement (or any successor franchise agreement) or the Management Agreement (or any successor management agreement) in any material respect (it being acknowledged and agreed that a modification to the Management Agreement to extend the term thereof (but not beyond the expiration of the term of the Franchise Agreement) and reduce the fee paid to Manager thereunder shall not constitute a violation of this subsection (iv)).

(d) Borrower shall maintain the Management Agreement for the operation of each Individual Property in full force and effect and timely perform in all material respects all of Borrower's obligations thereunder and enforce performance of all obligations of the manager thereunder, and not permit the termination or amendment of such Management Agreement unless the prior written consent of Lender is first obtained.

(e) If at any time the current Management Agreement or Franchise Agreement is no longer in full force and effect, Borrower shall enter into a new franchise agreement (a "**Replacement Franchise Agreement**") and/or management agreement with a nationally recognized hotel company acceptable to Lender including the companies listed on Exhibit D attached hereto. Any new management agreement and/or franchise agreement shall be subject to the review and approval of Lender, which shall not be unreasonably withheld.

5. SALE, TRANSFER, OR ENCUMBRANCE OF THE PROPERTY; MERGER; PARTIAL RELEASE

Section 5.01 Due-on-Sale or Encumbrance. It shall be an Event of Default and, at the sole option of Lender, Lender may accelerate the Obligations and the entire Obligations (including any Prepayment Premium) shall become immediately due and payable, if, without Lender's prior written consent (which consent may be given or withheld for any or for no reason or given conditionally, in Lender's sole discretion) any of the following shall occur:

- (a) Borrower shall sell, convey, assign, transfer, dispose of or be divested of its title to, convey security title to, mortgage, encumber or cause to be encumbered the Property or any interest therein, in any manner or way, whether voluntary or involuntary; or
- (b) in the event of any merger, consolidation, sale, transfer, assignment, liquidation or dissolution involving any or all of the assets of Borrower or any general partner or managing member of Borrower; or
- (c) in the event of the assignment, transfer, pledge, voluntary or involuntary sale, or encumbrance (or any of the foregoing at one time or over any period of time) of:
 - (i) (1) any ownership interests in the Borrower, regardless of the type or form of entity of Borrower, (2) the voting stock or ownership interest of any corporation or limited liability company which is, respectively, general partner or managing member of Borrower or any corporation or limited liability company directly or indirectly owning 10% or more of any such corporation or limited liability company, or (3) the ownership interests of any owner of ten percent (10%) or more of the beneficial interests of Borrower if Borrower is a trust; or
 - (ii) any general partnership, managing member or controlling interest in (1) Borrower, (2) an entity which is in Borrower's chain of ownership and which is derivatively liable for the obligations of Borrower, or (3) any entity that has the right to participate directly or indirectly in the control of the management or operations of Borrower; or
- (d) in the event of the conversion of any general partnership interest in Borrower to a limited partnership interest, if Borrower is a partnership; or
- (e) in the event of any change, removal, or resignation of any general partner of Borrower, if Borrower is a partnership;
- (f) in the event of any change, removal, addition, or resignation of a managing member of Borrower (or if no managing member, any member), if Borrower is a limited liability company; or
- (g) Borrower shall (i) obtain any secured or unsecured debt except for customary and reasonable short-term trade payables obtained and repaid in the ordinary course of Borrower's business or (ii) guarantee, or otherwise agree to be liable for (whether conditionally or unconditionally), any obligation of any person or entity.

The provisions set forth above shall not apply to transfers of ownership interests in the Borrower (i) under any will or applicable law of descent, (ii) among any of the holders of direct or indirect ownership interests in Borrower that were holders of ownership interests in Borrower on the Closing Date, (iii) to any entity that is wholly owned, directly or indirectly, by FLLP or FLTI or any combination thereof, or (iv) representing up to forty-nine percent (49%) of the direct or indirect ownership interests in the Borrower to any person or entity, as long as no Event of Default exists at the time of any transfer described in (ii), (iii) or (iv) of this sentence and following any transfer described in (ii), (iii) or (iv), of this sentence (1) FLLP shall at all times own, directly or indirectly at least fifty-one percent (51%) of the equity interest in, and retain and maintain control of, Borrower and FLTI shall at all times be the sole general partner of, and maintain control over, FLLP, and (2) within fifteen (15) days following any such transfer, Borrower shall deliver to Lender (a) a statement showing the current ownership of the Borrower, (b) a certification from Borrower that Borrower remains in compliance with the ERISA provisions of the Loan Documents, and (c) a certification from Borrower that Borrower remains in compliance with the representations, warranties and covenants in the Loan Documents relative to Anti-Terrorism Regulations. Without limiting the provisions of the preceding sentence, Borrower and the transferee of the ownership interests in Borrower being transferred shall be deemed to have made the certification, as of the date of the applicable transfer, described in subsections (b) and (c) above in favor of Lender, as a result of the transfer, and the acceptance thereof, of the applicable ownership interests in Borrower. For purposes hereof, a person shall “**control**” the Borrower only if that person (i) shall have the power and authority, either directly or indirectly, to direct the day-to-day management of, and all major decisions regarding, the operations and management of the Borrower without requiring the consent of, or being subject to a veto by, any other person or entity, (ii) shall own, directly or indirectly, at least fifty-one percent (51%) of the equity and voting interests in that entity, and (iii) may not be removed from such position by any other party absent negligence or willful misconduct.

Section 5.02 Merger. Notwithstanding anything to the contrary in Section 5.01 above, if no Event of Default (or event which with the passage of time or the giving of notice or both would be an Event of Default) has occurred and is continuing, Lender agrees that, upon forty-five (45) days prior written request of Borrower, Lender shall consent to the merger of FLTI and another entity (whether through one transaction or a series of transactions), if:

(a) The proposed transferee (as used herein, such term includes the surviving party from such merger) is a United States entity and is a person with a debt-to-equity ratio, net worth and liquidity at least as strong as that of FLTI either at Closing or immediately prior to the proposed merger (whichever is stronger), and, in the judgment of Lender, has (i) the financial capability, creditworthiness and operational expertise necessary to own and operate a portfolio of properties of the size and complexity that proposed transferee and its subsidiaries would own immediately following the completion of the proposed merger, (ii) a reputation in real estate ownership that is comparable to the Borrower, FLLP and FLTI, and (iii) experience in the ownership, operation, management, and leasing of similar properties, equal to or greater than Borrower, FLLP and FLTI, and, it being understood, without limiting the foregoing, that the proposed transferee shall not be acceptable if (x) upon assumption of the Loan, such transferee’s, its affiliates’, or related entities’ credit obligations shall exceed Lender’s individual or related borrower limits as established by Lender from time to time in its sole discretion or (y) the proposed transferee is related to Lender or advised by Lender or any affiliate of Lender. For purposes hereof, the acquisition of 50% or more of the equity interest in FLLP or FLTI by one party or a group of related parties either in one transaction or a series of transactions shall be deemed to be a merger subject to the terms of this paragraph;

(b) Borrower pays Lender a non-refundable servicing fee (of \$25,000.00) at the time of the request, and an additional fee equal to 0.25% of the outstanding principal balance of the Loan (less the \$25,000.00 paid at the time of the request) at the time of the transfer;

(c) At Lender's option, Lender's title policy is endorsed to verify the first priority lien of the Instruments at Borrower's expense (to bring forward the effective date thereof and set forth the current schedule of subordinate matters with respect to title; provided, however, that if any element of such endorsement shall require payment of a full title insurance premium, Lender agrees to accept a title company certification or title report in lieu thereof);

(d) The transferee expressly assumes all obligations applicable to FLTI under the Documents and executes any documents reasonably required by Lender, and all of these documents are satisfactory in form and substance to Lender, in Lender's reasonable discretion, and either FLLP and FLTI reaffirm their obligations under existing guaranties and indemnities or a new guarantor, acceptable to Lender, executes guaranties and indemnities (pursuant to documents satisfactory in form and substance to Lender) with respect to all of the obligations under the Environmental and ERISA Indemnity Agreement, and Section 7.01 hereof;

(e) Borrower shall deliver to Lender copies of all transfer documents and merger documents (to the extent Borrower is permitted by law to reveal such documents);

(f) The transferee complies with the ERISA provisions of the Documents and delivers such ERISA certifications and representations as Lender shall required in order to demonstrate compliance with the ERISA provisions of the Documents;

(g) The transferee provides representations and warranties satisfactory to Lender regarding the anti-terrorism lists and anti-terrorism laws, rules, and regulations; and

(h) Borrower or the transferee pays all reasonable fees, costs, and expenses incurred by Lender in connection with the proposed transfer, including, without limitation, all legal (for outside counsel), accounting, title insurance, documentary stamps taxes, intangibles taxes, mortgage taxes, recording fees, and appraisal fees, whether or not the merger is actually consummated.

Section 5.03 Partial Release

Upon not less than sixty (60) days prior written notice from Borrower, Lender shall release (a "**Property Release**") one or more Individual Property(ies) from the lien of the Loan Documents (each, a "**Released Property**"), upon the satisfaction (as determined by Lender in its sole discretion) of all of the following terms and conditions:

- (a) At the time of the request and the time of the proposed Property Release, there shall be no default under the Documents, and there shall exist no condition or state of facts which with the passage of time or the giving of notice or both, would constitute a default under the Documents;
- (b) Any such request may be made no sooner than nine (9) months after the Closing, and such written request must be received no later than twelve (12) months prior to the maturity date of the Loan;
- (c) For each Released Property, Borrower shall have paid to Lender the "**Release Price**", which shall be equal to (i) 1.20% of the Allocated Loan Amount applicable to the Released Property (such amount shall herein be called the "**Principal Payment Amount**") plus (ii) the applicable Prepayment Premium (based on the Principal Payment Amount) plus (iii) all accrued interest with respect to the allocated loan amount applicable to the Released

Property (any such allocated loan amount being referred to as an “**Individual Loan**”) and all accrued and unpaid charges with respect to the Loan;

- (d) The Principal Payment Amount shall be applied to pay in full the principal balance due with respect to the Individual Loan applicable to the Released Property, and Lender, in its discretion, shall apply the portion of the Principal Payment Amount which is in excess of the then outstanding principal balance of the Individual Loan applicable to the Released Property to one of more of the other Individual Loans applicable to the other Individual Properties;
- (e) Lender shall have determined that following the Property Release, the Debt Service Coverage Ratio, calculated with respect to the remaining Property (excluding the Released Property) shall be at least equal to the greater of (i) 2.00 to 1.00 or (ii) the Debt Service Coverage Ratio for the Loan immediately prior to the proposed Release (including the Released Property). In the event the Debt Service Coverage Ratio of the remaining Property (excluding the Released Property) is less than the required level, Borrower shall have the right, subject to payment of the applicable Prepayment Premium, to pay Lender the amount necessary to increase the Debt Service Coverage Ratio of the remaining Property (excluding the Released Property) to the required level;
- (f) Lender shall have determined that following the Property Release, the Loan to Value Ratio, calculated with respect to the remaining Property (excluding the Released Property), shall not exceed the lesser of (i) forty-five percent (45%), or (ii) the Loan to Value Ratio of the Property (including the Released Property) immediately prior to the proposed Release. In the event the Loan to Value Ratio of the remaining Property (excluding the Released Property) exceeds the required level, Borrower shall have the right, subject to payment of the Prepayment Premium, to pay Lender the amount necessary to reduce the Loan to Value Ratio of the remaining Property (excluding the Released Property) to the required level;
- (g) At the time the Borrower makes its written request to Lender for a Property Release, Borrower shall pay to Lender a non-refundable administrative fee of \$20,000.00. Such non-refundable administrative fee shall be deemed earned by Lender upon its receipt by Lender and shall not be applied to the Principal Payment Amount, the Prepayment Premium, or any other amount due under this provision;
- (h) Whether or not the Property Release actually closes, Borrower shall pay to Lender all escrow, closing and recording charges and taxes including, but not limited to, the cost of preparing and delivering releases, any re-conveyance documentation and modifications of the Documents, including legal fees and costs, the cost of any title insurance endorsements that Lender may require, any expenses incurred by the Lender in connection with the Property Release, and any sums then due and payable under the Documents;
- (i) Following any Property Release, (1) one of the Birmingham, Alabama and Napa Valley, California Individual Properties shall remain part of the remaining Property, and (ii) one of the Fort Lauderdale, Florida; and Miami, Florida shall remain part of the remaining Property; and
- (j) Such other terms and conditions as Lender shall reasonably require.

Following each Property Release, Lender shall distribute to Borrower any amounts held in the FF&E Reserve on a pro rata basis based on four percent (4%) of the gross revenues of the Release Property and four percent (4%) of the gross revenues of the remaining Property.

Notwithstanding anything to the contrary in this Section 5.03, Borrower shall only have the right to a combined cumulative total (during the entire term of the Loan) of Property Releases of three (3) Individual Properties.

This Section shall be personal to the original Borrower under the Loan, together with any transferees expressly permitted by, or consented to by Lender pursuant to, the terms of Section 5.02 above, and no other transferee shall have any rights under this Section.

6. EVENT OF DEFAULT

Section 6.01 Events of Default. The following shall be an “**Event of Default**” (regardless of whether the breach, failure, default, or other event or circumstance specified below was caused or permitted by, or attributable to the actions or failure to act, of Borrower or Lessee):

(a) if Borrower fails to make any payment required under the Documents when due and such failure continues for five (5) days after written notice; *provided*, however, that if Lender gives one (1) notice of default within any twelve (12) month period, Borrower shall have no further right to any notice of monetary default during the next following twelve (12) month period; provided, further, however, Borrower shall have no right to any such notice upon the maturity date of the Note;

(b) except for defaults listed in the other subsections of this Section 6.01, if Borrower fails to perform or comply with any other provision contained in the Documents and the default is not cured within thirty (30) days of Lender providing written notice thereof (the “**Grace Period**”); provided, however, that the Grace Period will be extended up to an additional sixty (60) days (for a total of ninety (90) days from the date of default) if (i) Borrower or Lessee, as the case may be, immediately commences and diligently pursues the cure of such default and delivers (within the Grace Period) to Lender a written request for more time and (ii) Lender determines in good faith that (1) such default cannot be cured within the Grace Period but can be cured within ninety (90) days after the default, (2) no lien or security interest created by the Documents will be impaired prior to completion of such cure, and (3) Lender’s immediate exercise of any remedies provided hereunder or by law is not necessary for the protection or preservation of the Property or Lender’s security interest;

(c) if any representation made (i) in connection with the Loan or the Obligations or (ii) in the Loan Application or Documents shall be false or misleading in any material respect;

(d) if any default under Section 5.01 occurs;

(e) if Borrower or Lessee shall become Insolvent;

(f) if any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding, or any other proceedings for the relief of debtors, is instituted by or against Borrower or Lessee, and, if instituted against Borrower or Lessee, is allowed, consented to, or not dismissed within the earlier to occur of (i) ninety (90) days after such institution or (ii) the filing of an order for relief;

(g) if any of the events in Sections 6.01 (e) or (f) shall occur with respect to the member of Borrower,

(h) at the election of Lender and only after written notice to Borrower, if a Bankruptcy Action shall occur with respect to (i) FLTI, or (ii) FLLP, or (iii) any guarantor of payment and/or performance of any of the Obligations;

(i) if the Property shall be taken, attached, or sequestered on execution or other process of law in any action against Borrower or Lessee (other than pursuant to a Taking, which shall be governed by Section 4.08 of this Agreement);

(j) if any default occurs under the Environmental and ERISA Indemnity and such default is not cured within any applicable grace period in that document;

(k) if Borrower or Lessee shall fail at any time to obtain, maintain, renew, or keep in force the insurance policies required by Section 4.06 of this Agreement within ten (10) days after written notice from Lender;

(l) if Borrower shall be in default under any other mortgage or security agreement executed by Borrower or Lessee covering any part of the Property, whether it be superior or junior in lien to the Instruments, other than security agreements securing either immaterial amounts (including any security agreements securing a purchase money loan or equipment lease of photocopiers or postage meter machines);

(m) if any claim of priority (except based upon a Permitted Encumbrance) to the Documents by title, lien, or otherwise shall be consented to by Borrower or Lessee (which claim is not dismissed or released within thirty (30) days after Borrower or Lessee shall have consented thereto) or shall be upheld by any court of competent jurisdiction;

(n) (i) the consummation by Borrower or Lessee of any transaction which would cause (A) the Loan or any exercise of Lender's rights under the Documents to constitute a non-exempt prohibited transaction under ERISA or (B) a violation of a state statute regulating governmental plans; (ii) the failure of any representation in Section 4.11(b) of this Agreement to be true and correct in all respects; or (iii) the failure of Borrower or Lessee to provide Lender with the written certifications required by Section 4.11(c) of this Agreement;

(o) (i) the consummation by Borrower or Lessee of any transaction which would cause an OFAC Violation; (ii) the failure of any representation in Section 3.09 of this Agreement to be true and correct in all respects; or (iii) the failure of Borrower or Lessee to comply with the provisions of Section 4.20 of this Agreement, unless such default is cured within the lesser of (A) fifteen (15) days after written notice of such default to Borrower or Lessee, as the case may be, or (B) the shortest cure period, if any, provided for under any Laws applicable to such matters (including, without limitation, the Anti-Terrorism Regulations);

(p) if and only to the extent that Borrower or Lessee has a contractual right to prevent same, if, without Lender's prior consent, the Manager under the Management Agreement (or any successor management agreement) resigns or is removed, or the ownership, management or control of such Manager is transferred to a person or entity other than the general partner or managing member of the Borrower, or there is any material change in the Management Agreement (or any successor management agreement), other than a modification to the Management Agreement to extend the term thereof (but not beyond the expiration of the term of the Franchise Agreement) and reduce the fee paid to Manager thereunder;

(q) if a default has occurred and continues beyond any applicable cure period under the Management Agreement (or any successor management agreement) if such default permits the Manager to terminate or cancel the Management Agreement (or any successor management agreements);

(r) if, without Lender's prior consent, Borrower or Lessee enters into a new franchise agreement or there is any material change in the Franchise Agreement (or any successor franchise agreement);

(s) if a default has occurred and continues beyond any applicable cure period under the Franchise Agreement (or any successor franchise agreement) and if such default permits the franchisor thereunder (including the Franchisor) to terminate or cancel its respective franchise agreement;

(t) if Borrower or Lessee ceases to do business as a hotel or motel on the Property or terminates such business for any reason whatsoever (other than temporary cessation in connection with any casualty or renovations to any Individual Property approved by Lender);

(u) the occurrence of a default or event of default after the expiration of applicable cure periods, if any, under any of the other Documents;

(v) the occurrence of any other termination of the Primary Lease without the prior, written consent of Lender; or

(w) The occurrence of a termination of any franchise agreement applicable to any Individual Property (including the Franchise Agreement), without Lender's prior written consent, unless, within sixty (60) days thereafter, an agreement in lieu thereof acceptable to Lender is entered into.

Section 6.02 Remedies. If an Event of Default occurs, Lender or any person designated by Lender may (but shall not be obligated to) take any action (separately, concurrently, cumulatively, and at any time and in any order) permitted under any Laws, without notice, demand, presentment, or protest (all of which are hereby waived), to protect and enforce Lender's rights under the Documents or Laws including without limitation those actions set forth in the Instruments.

7. LIMITATION ON PERSONAL LIABILITY AND INDEMNITIES

Section 7.01 Limited Recourse Liability.

Borrower shall not have any personal liability for the Loan or any obligations set forth in the Documents. Notwithstanding the preceding sentence, Lender may bring a foreclosure action or other appropriate action to enforce the Documents or realize upon and protect the Property (including, without limitation, naming Borrower and any other necessary parties in the actions) and **IN ADDITION THE RECOURSE PARTIES SHALL HAVE JOINT AND SEVERAL PERSONAL LIABILITY FOR:**

- (a) any amounts accrued and/or payable under any indemnities, guaranties, master leases or similar instruments furnished in connection with the Loan (including, without limitation, the provisions of Sections 7.03, 7.04, 7.05, 7.06 and 7.07 below and the Environmental and ERISA Indemnity).

- (b) the amount of any assessments and taxes (accrued and/or payable) with respect to the Property;
- (c) the amount of any security deposits, rents prepaid more than one (1) month in advance, or prepaid expenses of tenants to the extent not turned over to (i) Lender upon foreclosure, sale (pursuant to power of sale), or conveyance in lieu thereof, or (ii) a receiver or trustee for the Property after appointment;
- (d) the amount of any insurance proceeds or condemnation awards neither turned over to Lender nor used in compliance with the Documents;
- (e) actual damages suffered or incurred by Lender as a result of Borrower (i) entering into a new Lease, (ii) entering into an amendment or termination of an existing Lease (other than a Primary Lease, which is covered in Section 7.01(E) below), (iii) accepting a termination, cancellation or surrender of an existing Lease in breach of the leasing restrictions set forth in the Assignments of Leases, or (iv) entering into leases or other agreements regarding occupancy of guest rooms at any Individual Property for in excess of thirty (30) days on other than market terms and rents;
- (f) damages suffered or incurred by Lender by reason of any intentional waste of the Property;
- (g) the amount of any Rents or other income from the Property received by any of the Recourse Parties after delivery of notice of a default under the Documents (but only if such default is not cured prior to the expiration of the applicable cure period, if any) and not otherwise applied to the indebtedness under the Notes or to the current (not deferred) operating expenses of the Property; PROVIDED, HOWEVER, THAT THE RECOURSE PARTIES SHALL HAVE PERSONAL LIABILITY for amounts, if any, paid as expenses to a person or entity related to or affiliated with any of the Recourse Parties except for any such amount paid to a related or affiliated person or entity for (A) reasonable salaries for on-site employees, (B) a reasonable allocation of the salaries of off-site employees for accounting and management, and (C) out-of-pocket expenses of Borrower's management company relating to the Property, but in no event shall such expenses include any profit or be greater than prevailing market rates for any such services. For purposes of this subsection, Manager, any of its subsidiaries and any successor third-party, unaffiliated management company shall not be deemed to be related or affiliated with Borrower or any of the Recourse Parties by virtue of being Manager;
- (h) the face amount of any letter of credit required under the Documents or otherwise in connection with the Loan that Borrower fails to maintain;
- (i) following a default under the Documents, all reasonable attorneys' fees, including allocated costs of Lender's staff attorneys, and other expenses incurred by Lender in enforcing the Documents if Borrower contests, delays, or otherwise hinders or opposes (including, without limitation, the filing of a bankruptcy) any of Lender's enforcement actions; provided, however, that if in such action Borrower successfully proves that no default occurred under the Documents, Borrower shall not be required to reimburse Lender for such attorneys' fees, allocated costs and other expenses; and
- (j) actual damages suffered or incurred by Lender as a result of Borrower's breach or violation of the Special Purpose Entity Requirements (other than Section 2(m) and 2(q) set forth in

Exhibit C attached hereto, breach or violation of which shall not result in personal liability under this subsection 7.01(j)).

- (k) all fees, costs, expenses, penalties and other sums (accrued and/or payable prior to the date upon which Lender actually takes title to an Individual Property through foreclosure, deed in lieu of foreclosure or otherwise (the “**Property Transition Date**”)) relating to any Franchise Agreement affecting any Individual Property and any related software and/or hardware licensing, communications and technical support agreements;
- (l) all Make-Whole Fees payable in connection with assuming Borrower’s rights and interest under any Franchise Agreement upon foreclosure, sale (pursuant to power of sale), or conveyance in lieu thereof;
- (m) all termination fees, costs, expenses and other sums payable on account of any voluntary termination of any Hotel Franchise Agreement by any of the Recourse Parties without Lender’s prior written consent, as required under the Documents;
- (n) all fees, costs, expenses and other sums payable upon a voluntary termination of any Hotel Franchise Agreement by any of the Recourse Parties without Lender’s prior written consent, as required under the Documents, in connection with (i) reinstating any Hotel Franchise Agreement upon foreclosure, sale (pursuant to power of sale), or conveyance in lieu thereof, and (ii) securing any new hotel franchise agreement for an Individual Property with a franchisor of hotel properties of equivalent (but not better) class as that of the Property, upon foreclosure, sale (pursuant to power of sale), or conveyance in lieu thereof if, after good faith and reasonable efforts by Lender to reinstate the Hotel Franchise Agreement, Lender is unable to do so; provided, however, that no liability shall accrue under this subsection (n) if, within thirty (30) days after any voluntary termination of any Hotel Franchise Agreement by any of the Recourse Parties without Lender’s prior written consent as required under the Documents, Borrower shall have entered into a new Acceptable Hotel Franchise Agreement. Borrower acknowledges that the terms of this subsection (n) are solely intended to govern the question of liability under this subsection (n) and shall in no way be considered in determining whether or not an Event of Default shall have occurred and shall in no way be reflective of any standards to which Lender shall be subject in granting or withholding consent to any termination of or amendment to any Hotel Franchise Agreement; and
- (o) any security or other deposits for conventions, banquets or catering, or the booking of guest rooms that are not applied in accordance with the terms of the agreement with the depositor (i) not turned over to Lender upon foreclosure, sale (pursuant to power of sale), or conveyance in lieu thereof, or (ii) not turned over to a receiver or trustee for the Property after his/her appointment.

Notwithstanding the foregoing, the **RECOURSE PARTIES SHALL HAVE PERSONAL LIABILITY** for all indebtedness evidenced by the Notes and all obligations set forth in the Documents (except as set forth in subsection 7.01(D) below) if:

- (A) there shall be any breach or violation of Section 5.01 above; provided, however, if Borrower (1) establishes that the breach or violation (x) was inadvertent, and (y) did not involve the transfer or disposition, or encumbrance with a monetary lien, of the Property or any part thereof, (2) promptly gives Lender written notice of such event, and (3) cures the same to the reasonable satisfaction of Lender within thirty (30) days after any senior officer

of any of the Recourse Parties first had actual knowledge thereof (regardless of whether Lender shall have given any notice of default or other notice on account thereof), the Recourse Parties shall be personally liable only for any actual damages suffered or incurred by Lender as a result of the breach or violation; or

- (B) there shall be any fraud or material misrepresentation by any of the Recourse Parties in connection with the Property, the Documents, the Loan Application, or any other aspect of the Loan; provided, however, if, with respect to a material misrepresentation only, Borrower (1) establishes that the misrepresentation was inadvertent, (2) promptly gives Lender written notice of the misrepresentation, and (3) cures the same to the reasonable satisfaction of Lender within thirty (30) days after any senior officer of any of the Recourse Parties first had actual knowledge thereof (regardless of whether Lender shall have given any notice of default or other notice on account thereof), the Recourse Parties shall be personally liable only for any actual damages suffered or incurred by Lender as a result of the misrepresentation; or
- (C) the Property or any part thereof shall become an asset in (i) a voluntary bankruptcy or insolvency proceeding or (ii) an involuntary bankruptcy or insolvency proceeding which is not dismissed within ninety (90) days of filing; provided, however, that this subsection 7.01(C) shall not apply if (A) an involuntary bankruptcy is filed by Lender or (B) an involuntary filing was initiated by a third-party creditor independent of any collusive action, participation or collusive communication by (1) Borrower, (2) any partner, shareholder or member of Borrower or Borrower's general partner or managing member, or (3) any of the other Recourse Parties; or
- (D) any Individual Property located in California is determined to be "environmentally impaired" pursuant to the provisions of Section 726.5 of the California Code of Civil Procedure; provided that the liability of the Recourse Parties under this subsection (D) shall be equal to the amount that Borrower would be obligated to pay to Lender under Section 5.03 above to obtain a Release of the environmentally impaired Individual Property (as if such Individual Property were a Release Property), including without limitation, the applicable Prepayment Premium, all accrued interest with respect to the allocated loan amount applicable to the environmentally impaired Individual Property, and any amount necessary to either increase the Debt Service Coverage Ratio or reduce the Loan to Value Ratio of the other Property (those Individual Properties that are not environmentally impaired) to the required level set forth in Section 5.03 above; or
- (E) any of the Recourse Parties executes or authorizes an amendment or termination of any Primary Lease without Lender's prior written consent; provided, however, if Borrower (1) establishes that the execution or authorization of the amendment or termination was inadvertent, (2) promptly gives Lender written notice of such amendment or termination, and (3) cures the same to the reasonable satisfaction of Lender within thirty (30) days after any senior officer of Borrower or any of the other Recourse Parties first had actual knowledge thereof (regardless of whether Lender shall have given any notice of default or other notice on account thereof), the Recourse Parties shall be personally liable only for any actual damages suffered or incurred by Lender as a result of the amendment or termination.

Section 7.02 General Indemnity. Borrower agrees that while Lender has no liability to any person in tort or otherwise as lender and that Lender is not an owner or operator of the Property, Borrower shall, at its sole expense, protect, defend, release, indemnify and hold harmless ("**indemnify**") the Indemnified Parties from any Losses (defined below) imposed on, incurred by, or asserted against the Indemnified

Parties, directly or indirectly, arising out of or in connection with the Property, Loan, or Documents, including Losses; provided, however, that the foregoing indemnities shall not apply to any Losses caused by the gross negligence or willful misconduct of the Indemnified Parties. The term “Losses” shall mean any claims, suits, liabilities (including strict liabilities), actions, proceedings, obligations, debts, damages, losses (including, without limitation, unrealized loss of value of the Property), Costs, expenses, fines, penalties, charges, fees, judgments, awards, and amounts paid in settlement of whatever kind including attorneys’ fees (both in-house staff and retained attorneys) and all other costs of defense.

Section 7.03 Transaction Taxes Indemnity. Borrower shall, at its sole expense, indemnify the Indemnified Parties from all Losses imposed upon, incurred by, or asserted against the Indemnified Parties or the Documents relating to Transaction Taxes.

Section 7.04 ERISA Indemnity. Borrower shall, at its sole expense, indemnify the Indemnified Parties against all Losses imposed upon, incurred by, or asserted against the Indemnified Parties (a) as a result of a Violation, (b) in the investigation, defense, and settlement of a Violation, (c) as a result of a breach of the representations in Section 4.11 or default thereunder, (d) in correcting any prohibited transaction or the sale of a prohibited loan, and (e) in obtaining any individual prohibited transaction exemption under ERISA that may be required, in Lender’s sole discretion.

Section 7.05 Environmental and ERISA Indemnity. Borrower and other persons, if any, have executed and delivered the Environmental and ERISA Indemnity Agreement dated the date hereof to Lender (“**Environmental and ERISA Indemnity**”).

Section 7.06 Duty to Defend, Costs and Expenses. Upon request, whether Borrower’s obligation to indemnify Lender arises under this Section 7 or in the Documents, Borrower shall defend the Indemnified Parties (in Borrower’s or the Indemnified Parties’ names) by attorneys and other professionals approved by the Indemnified Parties. Notwithstanding the foregoing, the Indemnified Parties may, in their sole discretion, engage their own attorneys and professionals to defend or assist them and, at their option, their attorneys shall control the resolution of any claims or proceedings. Upon demand, Borrower shall pay or, in the sole discretion of the Indemnified Parties, reimburse and/or indemnify the Indemnified Parties for all Costs imposed on, incurred by, or asserted against the Indemnified Parties by reason of any items set forth in this Section 7 and/or the enforcement or preservation of the Indemnified Parties’ rights under the Documents. Any amount payable to the Indemnified Parties under this Section shall (a) be deemed a demand obligation, (b) be part of the Obligations, (c) bear interest from the date of demand at the Default Rate until paid if not paid on demand, and (d) be secured by the Instruments.

Section 7.07 Recourse Obligation and Survival. Notwithstanding anything to the contrary in the Documents and in addition to the recourse obligations set forth in Section 7.01 above, the obligations of Borrower under Sections 7.03, 7.04, 7.05, and 7.06 shall be a full recourse obligation of Borrower, shall not be subject to any limitation on personal liability in the Documents, and shall survive (a) repayment of the Obligations, (b) any termination, satisfaction, transfer of title by power of sale, assignment or foreclosure of this Instrument, (c) the acceptance by Lender (or any nominee) of a deed in lieu of foreclosure, (d) a plan of reorganization filed under the Bankruptcy Code, or (e) the exercise by the Lender of any rights in the Documents. Borrower’s obligations under Section 7 shall not be affected by the absence or unavailability of insurance covering the same or by the failure or refusal by any insurance carrier to perform any obligation under any applicable insurance policy.

8. ARTICLE IX - ADDITIONAL PROVISIONS

Section 8.01 Usury Savings Clause. All agreements in the Documents are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid under the Documents for the use,

forbearance, or detention of money exceed the highest lawful rate permitted by Laws. If, at the time of performance, fulfillment of any provision of the Documents shall involve transcending the limit of validity prescribed by Laws, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity. If Lender shall ever receive as interest an amount which would exceed the highest lawful rate, the receipt of such excess shall be deemed a mistake and (a) shall be canceled automatically or (b) if paid, such excess shall be (i) credited against the principal amount of the Obligations to the extent permitted by Laws or (ii) rebated to Borrower if it cannot be so credited under Laws. Furthermore, all sums paid or agreed to be paid under the Documents for the use, forbearance, or detention of money shall to the extent permitted by Laws be amortized, prorated, allocated, and spread throughout the full stated term of the Notes until payment in full so that the rate or amount of interest on account of the Obligations does not exceed the maximum lawful rate of interest from time to time in effect and applicable to the Obligations for so long as the Obligations are outstanding.

Section 8.02 Notices. Any notice, request, demand, consent, approval, direction, agreement, or other communication (any “**notice**”) required or permitted under the Documents shall be in writing and shall be validly given if sent by a nationally-recognized courier that obtains receipts, delivered personally by a courier that obtains receipts, or mailed by United States certified mail (with return receipt requested and postage prepaid) addressed to the applicable person as follows:

If to Borrower:

FelCor Lodging Trust Incorporated
545 E. John Carpenter Freeway, Suite 1300
Irving, Texas 75062
Attention: Jonathon Yellen, Executive Vice
President and General Counsel

With a copy of notices sent to Borrower to:

Akin Gump Strauss Hauer & Feld LLP
1700 Pacific Avenue., Suite 4100
Dallas, Texas 75201-4675
Attention: Robert W. Dockery, Esq.

If to Lender:

THE PRUDENTIAL INSURANCE COMPANY
OF AMERICA
Prudential Asset Resources
2100 Ross Avenue, Suite 2500
Dallas, Texas 75201
Attention: Asset Management Department
Reference Loan No. 706108165

With a copy of notices sent to Lender to:

THE PRUDENTIAL INSURANCE COMPANY
OF AMERICA
Prudential Asset Resources
2100 Ross Avenue, Suite 2500
Dallas, Texas 75201
Attention: Legal Department
Reference Loan No. 706108165

Each notice shall be effective upon being so sent, delivered, or mailed, but the time period for response or action shall run from the date of receipt as shown on the delivery receipt. Refusal to accept delivery or the inability to deliver because of a changed address for which no notice was given shall be deemed receipt. Any party may periodically change its address for notice and specify up to two (2) additional addresses for copies by giving the other party at least ten (10) days’ prior notice.

Section 8.03 Sole Discretion of Lender. Except as otherwise expressly stated, whenever Lender’s judgment, consent, or approval is required or Lender shall have an option or election under the Documents, such judgment, the decision as to whether or not to consent to or approve the same, or the exercise of such option or election shall be in the sole and absolute discretion of Lender.

Section 8.04 Applicable Law and Submission to Jurisdiction. The Documents shall be governed by and construed in accordance with the laws of the State of New York and the applicable laws of the United States of America. Without limiting Lender's or Trustee's right to bring any action or proceeding against Borrower or the Property relating to the Obligations (an "**Action**") in the courts of other jurisdictions, Borrower irrevocably (a) submits to the jurisdiction of any state or federal court in California, (b) agrees that any Action may be heard and determined in such court, and (c) waives, to the fullest extent permitted by Laws, the defense of an inconvenient forum to the maintenance of any Action in such jurisdiction.

Section 8.05 Construction of Provisions. The following rules of construction shall apply for all purposes of this Agreement unless the context otherwise requires: (a) all references to numbered Articles or Sections or to lettered Exhibits are references to the Articles and Sections hereof and the Exhibits annexed to this Agreement and such Exhibits are incorporated into this Agreement as if fully set forth in the body of this Agreement; (b) all Article, Section, and Exhibit captions are used for convenience and reference only and in no way define, limit, or in any way affect this Agreement; (c) words of masculine, feminine, or neuter gender shall mean and include the correlative words of the other genders, and words importing the singular number shall mean and include the plural number, and vice versa; (d) no inference in favor of or against any party shall be drawn from the fact that such party has drafted any portion of this Agreement; (e) all obligations of Borrower hereunder shall be performed and satisfied by or on behalf of Borrower at Borrower's sole expense; (f) the terms "**include,**" "**including,**" and similar terms shall be construed as if followed by the phrase "**without being limited to**"; (g) the terms "**Property,**" "**Land,**" "**Improvements,**" and "**Personal Property**" shall be construed as if followed by the phrase "**or any part thereof**"; (h) the term "**Obligations**" shall be construed as if followed by the phrase "**or any other sums secured hereby, or any part thereof**"; (i) the term "**person**" shall include natural persons, firms, partnerships, corporations, governmental authorities or agencies, and any other public or private legal entities; (j) the term "**provisions,**" when used with respect hereto or to any other document or instrument, shall be construed as if preceded by the phrase "**terms, covenants, agreements, requirements, and/or conditions**"; (k) the term "**lease**" shall mean "**tenancy, subtenancy, lease, sublease, or rental agreement,**" the term "**lessor**" shall mean "**landlord, sublandlord, lessor, and sublessor,**" and the term "**Tenants**" or "**lessee**" shall mean "**tenant, subtenant, lessee, and sublessee**"; (l) the term "**owned**" shall mean "**now owned or later acquired**"; (m) the terms "**any**" and "**all**" shall mean "**any or all**"; and (n) the term "**on demand**" or "**upon demand**" shall mean "**within five (5) business days after written notice**"; and (o) the term "**Trustee**" shall mean "**Trustee, its successors and assigns, and any substitute or successor Trustee of the estates, properties, powers, trusts and rights conferred upon Trustee pursuant to the Documents.**"

Section 8.06 Miscellaneous. If any provision of the Documents shall be held to be invalid, illegal, or unenforceable in any respect, this shall not affect any other provisions of the Documents and such provision shall be limited and construed as if it were not in the Documents. If title to the Property becomes vested in any person other than Borrower, Lender and Trustee may, without notice to Borrower, deal with such person regarding the Documents or the Obligations in the same manner as with Borrower without in any way vitiating or discharging Borrower's liability under the Documents or being deemed to have consented to the vesting. If both the lessor's and lessee's interest under any Lease ever becomes vested in any one person, the Instruments and the lien and security interest created thereby shall not be destroyed or terminated by the application of the doctrine of merger and Lender and Trustee shall continue to have and enjoy all its rights and privileges as to each separate estate. Upon foreclosure (or transfer of title by power of sale) of the Instruments, none of the Leases shall be destroyed or terminated as a result of such foreclosure (or sale), by application of the doctrine of merger or as a matter of law, unless Lender or Trustee takes all actions required by law to terminate the Leases as a result of foreclosure or sale. All of Borrower's covenants and agreements under the Documents shall run with the land and time is of the essence. Borrower appoints Lender as its attorney-in-fact, which appointment is irrevocable and shall be deemed to be coupled with an interest, with respect to the execution,

acknowledgment, delivery, filing or recording for and in the name of Borrower of any of the documents listed in Sections 4.04 and 4.19 of this Agreement, and Section 4.02 of the Instruments. The Documents cannot be amended, terminated, or discharged except in a writing signed by the party against whom enforcement is sought. No waiver, release, or other forbearance by Lender will be effective unless it is in a writing signed by Lender and then only to the extent expressly stated. The provisions of the Documents shall be binding upon Borrower and its heirs, devisees, representatives, successors, and assigns including successors in interest to the Property and inure to the benefit of Lender and Trustee and its or their heirs, successors, substitutes, and assigns. Where two or more persons have executed the Documents, the obligations of such persons shall be joint and several, except to the extent the context clearly indicates otherwise. The Documents may be executed in any number of counterparts with the same effect as if all parties had executed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart. Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of any Document which is not of public record, and, in the case of any mutilation, upon surrender and cancellation of the Document, Borrower will issue, in lieu thereof, a replacement Document, dated the date of the lost, stolen, destroyed or mutilated Document containing the same provisions. Any reviews, inspections, reports, approvals or similar items conducted, made or produced by or on behalf of Lender with respect to Borrower, the Property or the Loan are for loan underwriting and servicing purposes only, and shall not constitute an acknowledgment, representation or warranty of the accuracy thereof, or an assumption of liability with respect to Borrower, Borrower's contractors, architects, engineers, employees, agents or invitees, present or future tenants, occupants or owners of the Property, or any other party.

Section 8.07 Entire Agreement. Except as provided in Section 4.17, (a) the Documents constitute the entire understanding and agreement between Borrower, Lender and Trustee with respect to the Loan and supersede all prior written or oral understandings and agreements with respect to the Loan including the Loan application and Loan commitment and (b) Borrower is not relying on any representations or warranties of Lender except as expressly set forth in the Documents.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
[SIGNATURES BEGIN ON NEXT PAGE]

IN WITNESS WHEREOF, this Loan Agreement has been duly executed by Lender and Borrower as of the day and year first above written.

BORROWER:

FELCOR/CSS (SPE), L.L.C., a Delaware limited liability company

By: _____

Name: _____

Title: _____

[SIGNATURE PAGES CONTINUED ON NEXT PAGE]

[SIGNATURES CONTINUED FROM PREVIOUS PAGE]
[SIGNATURE PAGE TO LOAN AGREEMENT]

LENDER:

**THE PRUDENTIAL INSURANCE COMPANY
OF AMERICA**, a New Jersey corporation

By: _____

Name: _____

Title: Vice President

JOINDER BY LESSEE TO LOAN AGREEMENT

The undersigned, **DJONT OPERATIONS, L.L.C.**, a Delaware limited liability company, being the Lessee under the Primary Lease (as defined and described in the foregoing Agreement), does hereby join in the execution of such Agreement for the purposes hereinafter set forth. All terms appearing as initially capitalized terms and not otherwise expressly defined in this Joinder shall have the respective meanings given them in the Agreement (including Schedule 1 thereto, which is hereby incorporated herein by this reference).

RECITALS

A. Lessee, as the tenant under the Primary Lease, owns or controls certain of the Personal Property, Subleases (as defined and described in the Assignment of Leases), Lessee Rents (as defined and described in the Assignment of Leases) and other assets that are essential to the operation of the Property constituting Lender's security for the Loan.

B. Lender is willing to make the Loan to Borrower only if Lessee assigns and sets over to Lender and grants to Lender a security interest in the Personal Property, Subleases, Lessee Rents and other assets owned or controlled by Lessee.

C. Lender is relying on the undertakings and agreements of Lessee as set forth in this Joinder in agreeing to make the Loan, and in funding the Loan, to Borrower.

FOR good and valuable consideration, the receipt of which is hereby acknowledged, and which Lessee hereby agrees to be fair and adequate consideration for the execution and delivery of this Joinder and, except with respect to certain Documents being executed by Lessee with respect to the Property located in California and Louisiana) the similar joinders being executed by Lessee to certain of the other Documents (and the Instruments being executed by Lessee with respect to the Property located in California and Louisiana and the Assignment of Leases being executed by Lessee with respect to the Property located in California), Lessee agrees as follows:

1. **Liens and Security Interests.** For valuable consideration, Lessee hereby agrees to subject all of its leasehold estate and other rights, title, and interests in and to the Land and Improvements, to the lien of the Instruments, and Lessee hereby agrees to grant, bargain, sell, assign, transfer, pledge, mortgage, warrant, and convey the same to Lender, as security for the Obligations. In addition, Lessee hereby agrees to assign and pledge to Lender, and grant to Lender a security interest in, all of Lessee's right, title and interest in and to the Lessee Personal Property (as defined in the Instruments).

2. **Assignment of Subleases and Lessee Rents.** Lessee hereby agrees to assign, sets over, and transfer to Lender all of Lessee's right, title, interest and estates in and to the Subleases and Lessee Rents, subject to the terms and license granted to the Lessee under those certain Assignment of Leases made by Borrower to Lender, and, except with respect to the Property located in California, joined in by Lessee, and that certain Assignment of Leases made by Lessee to Lender with respect to the Property located in California, all dated the same date as this Agreement (the "**Assignments of Leases**").

3. **Continuation of Existence.** Lessee shall not (a) dissolve, terminate, or otherwise dispose of, directly, indirectly or by operation of law, all or substantially all of its assets; (b) reorganize or change its legal structure without Lender's prior written consent; (c) change its name, address, or the name under which Lessee conducts its business without promptly notifying Lender; or (d) do anything to cause the representations in Section 4.2 below to become untrue.

4. **Representations and Warranties.**

4.1 **Title, Legal Status and Authority.** Lessee (i) has good title to the Lessee Personal Property, free and clear of all liens, charges, encumbrances, and security interests, except the Permitted Encumbrances; (ii) will forever warrant and defend its title to the Lessee Personal Property and the validity, enforceability, and priority of the lien and security interest created by the Documents executed by Lessee against the claims of all persons; (iii) is a limited liability company duly organized, validly existing, and in good standing and qualified to transact business under the laws of its state of organization and each State where the Property is located; and (iv) has all necessary approvals, governmental and otherwise, and full power and authority to own its properties (including the Lessee Personal Property) and carry on its business.

4.2 **Validity of Loan.** The execution, delivery and performance of this Joinder, the similar joinders being executed by Lessee to certain of the Documents, and the Documents executed by Lessee (i) are within the power of Lessee, (ii) have been authorized by all requisite action; (iii) have received all necessary approvals and consents; (iv) will not violate, conflict with, breach, or constitute (with notice or lapse of time, or both) a default under (A) any law, order or judgment of any court or governmental authority applicable to Lessee, or the governing instrument of Lessee or (B) any indenture, agreement, or other instrument to which Lessee is a party or by which Lessee or any of its property is bound or affected; (v) will not result in the creation or imposition of any lien, charge, or encumbrance upon any of its properties or assets except for those in this Joinder, the similar joinders being executed by Lessee to certain of the other Documents, and those created by the other Documents; and (vi) will not require any authorization or license from, or any filing with, any governmental or other body (except for the recordation of the Instruments, the Assignments of Leases and the UCC-1 Financing Statements under the UCC). This Joinder, the similar joinders being executed by Lessee to certain of the other Documents, and the other Documents executed by Lessee constitute legal, valid, and binding obligations of Lessee.

4.3 **Litigation.** There is no action, suit, or proceeding, judicial, administrative, or otherwise (including any condemnation or similar proceeding), pending or, to the best knowledge of Lessee, threatened or contemplated against, or affecting, Lessee or the Property which would have a material adverse affect on either the Property or Lessee's ability to perform its obligations hereunder.

4.4 **Status of Property.**

(a) The Land and Improvements are not located in an area identified by the Secretary of Housing and Urban Development, or any successor, as an area having special flood hazards pursuant to the Flood Acts or, if located within any such area, Borrower or Lessee has and will maintain the insurance prescribed in Section 4.06(a)(iv) of the Loan Agreement.

(b) Borrower or Lessee, as the case may be, has all necessary (i) certificates, licenses, and other approvals, governmental and otherwise, for the operation of the Property and the conduct of its business and (ii) zoning, building code, land use, environmental and other similar permits or approvals, all of which are currently in full force and effect and not subject to revocation, suspension, forfeiture, or modification. To the best of Lessee's knowledge after due inquiry and investigation, the Property and its use and occupancy is in full compliance with all Laws (other than the Americans with Disabilities Act, for which the Property is in substantial compliance), and Lessee has not received any notice of any violation or potential violation of the Laws which has not been remedied or satisfied.

(c) The Property is served by all utilities (including water and sewer) required for its use.

(d) All public roads and streets necessary to serve the Property for its use have been completed, are serviceable, are legally open, and have been dedicated to and accepted by the appropriate governmental entities.

(e) The Property is free from damage caused by fire or other casualty.

(f) All costs and expenses for labor, materials, supplies, and equipment used in the construction of the Improvements have been paid in full except for the Permitted Encumbrances.

(g) Lessee owns and has paid in full all tangible Lessee Personal Property used in connection with the operation of the Property, free of all security interest, liens or encumbrances except the Permitted Encumbrances and those created by this Joinder, the similar joinders being executed by Lessee to certain of the other Documents, and the other Documents executed by Lessee.

(h) The Property is assessed for real estate tax purposes as one or more wholly independent tax lot(s), separate from any adjoining land or improvements and no other land or improvements is assessed and taxed together with the Property.

4.5 **Tax Status of Lessee.** Lessee is not a "**foreign person**" within the meaning of Sections 1445 and 7701 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder.

4.6 **Bankruptcy and Equivalent Value.** No bankruptcy, reorganization, insolvency, liquidation, or other proceeding for the relief of debtors has been instituted by or against Lessee. Lessee has received reasonably equivalent value for granting this Joinder, the similar joinders being executed by Lessee to certain of the other Documents, and the other Documents executed by Lessee.

4.7 **Disclosure.** Lessee has disclosed to Lender all material facts and has not failed to disclose any material fact that could cause any representation or warranty made herein to be materially misleading. There has been no adverse change in any condition, fact, circumstance, or event that would make any such information materially inaccurate, incomplete or otherwise misleading.

4.8 **Illegal Activity.** No portion of the Property has been or will be purchased, improved, fixtured, equipped or furnished with proceeds of any illegal activity and, to the best of Lessee's knowledge, there are no illegal activities at or on the Property.

4.9 **Primary Lease.** The Primary Lease is in full force and effect; no default by Lessee has occurred under the Primary Lease; and there is no existing condition which, but for the passage of time or the giving of notice, would result in a default by Lessee or, to the knowledge of Lessee, by Borrower under the terms of the Primary Lease. Lessee's interest in the Property is assignable to Lender without the consent of, or notice to, Borrower (or any such consent or notice that is required has been given).

5. **ERISA.** Lessee represents and warrants to Lender that (i) Lessee is not an "**employee benefit plan**" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), or a "**governmental plan**" within the meaning of Section 3(32) of ERISA; (ii) Lessee is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans; (iii) the assets of the Lessee do not constitute "**plan assets**" of one or more plans within the meaning of 29 C.F.R. Section 2510.3-10 1; and (iv) one or more of the following circumstances is true as to Lessee: (1) equity interests in Lessee are publicly offered securities, within the

meaning of 29 C.F.R. Section 2510.3-101(b)(2); (2) less than twenty-five percent (25%) of all equity interests in Lessee are held by "**benefit plan investors**" within the meaning of 29 C.F.R. Section 2510.3-101(f)(2); or (3) Lessee qualifies as an "**operating company**" or a "**real estate operating company**" within the meaning of 29 C.F.R. Section 2510.3-101(c) or (e). Lessee shall deliver to Lender such certifications and/or other evidence periodically requested by Lender, in its sole discretion, to verify these representations and warranties. Failure to deliver these certifications or evidence, breach of these representations and warranties, or consummation of any transaction which would cause this Joinder or any exercise of Lender's rights under this Joinder to (i) constitute a non-exempt prohibited transaction under ERISA or (ii) violate ERISA or any state statute regulating governmental plans shall also constitute a "**Violation**", and shall be an Event of Default. Notwithstanding anything in the Documents to the contrary, no sale, assignment, or transfer of any direct or indirect right, title, or interest in Lessee or the Property (including creation of a junior lien, encumbrance or leasehold interest) shall be permitted which would, in Lender's opinion, negate the representations in this Section or cause a Violation. At least fifteen (15) days before consummation of any of the foregoing, Lessee shall obtain from the proposed transferee or lienholder (i) a certification to Lender that the representations and warranties of this Section will be true after consummation and (ii) an agreement to comply with this Section.

6. **Environmental Representations and Warranties.** Lessee represents and warrants, to the best of Lessee's knowledge (after due inquiry and investigation) and additionally based upon the Environmental Report of the Property delivered to and approved by Lender in connection with the Loan, that except as fully disclosed in the Environmental Report: (i) there are no Hazardous Materials or underground storage tanks affecting the Property except for (A) routine office, cleaning, janitorial and other materials and supplies necessary to operate the Property for its current use and (B) Hazardous Materials that (1) are in compliance with Environmental Laws, (2) have all required permits, and (3) are in only the amounts necessary to operate the Property; (ii) there are no past, present or threatened Releases of Hazardous Materials in violation of any Environmental Law affecting the Property; (iii) there is no past or present non-compliance with Environmental Laws or with permits issued pursuant thereto; (iv) Lessee does not know of, and has not received, any written or oral notice or communication from any person relating to Hazardous Materials affecting the Property; and (v) Lessee has provided to Lender, in writing, all information relating to environmental conditions affecting the Property known to Lessee or contained in Lessee's files.

7. **Compliance with Agreement.** Lessee hereby acknowledges and agrees that it shall comply with, and that its rights as Lessee under the Primary Lease shall be subject to, the following provisions of the Agreement (the same being hereby incorporated herein as covenants of Lessee as if fully set forth herein):

(a) Sections 4.03(a) (as applied to Assessments that Lessee is responsible for under the Primary Lease) and 4.03(b);

(b) Section 4.04 (as applied to the Lessee Personal Property);

(c) Section 4.05 (to the extent that Lessee is responsible for under the Primary Lease);

(d) Sections 4.06(b), (c), (d) and (e) (as applied to insurance Lessee is responsible for carrying under the Primary Lease);

(e) Sections 4.07 and 4.08 (insofar as the same may conflict with the provisions of the Primary Lease);

(f) Section 4.09 (as applied to Liens for which Lessee is responsible under the Primary Lease);

(g) Section 4.10 (as applied to Subleases);

(h) Section 4.12(b) (insofar as the same may apply to Lessee's activities and operations on the Property and/or to environmental matters for which the Lessee is responsible under the Primary Lease) and Section 4.12(c) (with respect to any environmental matters that may require remediation during the term of the Primary Lease);

(i) Section 4.14;

(j) Section 4.15(e);

(k) Section 4.18;

(l) Section 4.19;

(m) Section 4.25;

(n) Sections 5.01 and 5.02 (as applied to transfers by, or with respect to, Lessee);

(o) Section 6.01 (insofar as the occurrence of any Event of Default, whether caused by Borrower or by Lessee, may entitle Lender to foreclose any of the Instruments and exercise its other remedies, it being agreed by Lessee that no separate notice or right to cure with respect to any default under the Instruments or other Documents shall apply for the benefit of Lessee);

(p) Section 6.02 (it being agreed by Lessee that, upon an Event of Default, Lender shall be entitled to exercise the remedies provided for in Article VI and in the other Documents, the result of which may be, among other things, to extinguish Lessee's leasehold estate in the Land and Improvements and divest Lessee of the Lessee Personal Property); and

(q) Sections 8.03 through 8.07.

8. **Borrower's Compliance with Mortgage.** Where the provisions or requirements of the Instruments conflict with those of the Primary Leases, the compliance by Borrower with the terms of the Instruments shall in no event constitute a default by Borrower as landlord under the Primary Leases or give rise to any remedial or other rights of the Lessee, notwithstanding that such compliance by Borrower does not satisfy the obligations of the Borrower as landlord under the Primary Leases; provided, however, that in any case in which any such Primary Lease is foreclosed under the related Instrument or compliance with the terms of such Instrument results in Lessee losing possession or use of all or any substantial portion of the Property, Lessee shall be entitled to exercise any remedies it may have against parties other than Borrower or Lender on account of such event.

9. **No Personal Liability.** Nothing in this Joinder shall be deemed or construed to render Lessee personally liable for payment of the Loan, or for payment or performance of any of the Obligations (except that notwithstanding the foregoing, nothing in this Joinder shall modify or limit the obligations of the Lessee under the Primary Leases (it being expressly agreed by Lessee that upon the occurrence of an Event of Default, Lender shall be entitled to enforce the provisions of the Primary Leases directly against Lessee)), and Lender shall look solely to Borrower and to Lender's security for the Obligations for recovery of any and all amounts payable under the Note, the Instruments, or the other

Documents; provided, however, that the foregoing shall not (subject to the provisions above of this paragraph) preclude Lender from (a) asserting the existence of an Event of Default and exercising its remedies as a result of any Event of Default that results from any act or failure to act by Lessee, (b) naming Lessee as a defendant in any action to foreclose the Instruments or otherwise realize upon its security for the Loan, expressly including the rights, title and interests of Lessee as described in this Joinder, or obtaining a receiver for the Property, or (c) seeking any injunctive, declaratory, or other relief with respect to any violation by Lessee of the provisions of the Agreement or any of the other Documents.

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IN WITNESS WHEREOF, Lessee has executed this Joinder as of the date of the Agreement.

DJONT OPERATIONS, L.L.C., a Delaware limited liability company

By: _____

Name: _____

Its: _____

Schedule 1

Definitions

“**Acceptable Hotel Franchise Agreement**” shall mean a new hotel franchise agreement with a nationally-recognized franchisor of hotel properties of equivalent or better class than the Property and whose financial condition and business reputation are reasonably acceptable to Lender and on economic terms equivalent to those generally applicable in the market at the time for similar agreements (as demonstrated by Borrower to the reasonable satisfaction of Lender) and shall otherwise be in form an content reasonably acceptable to Lender.

“**Additional Funds**” shall have the meaning ascribed to such term in Section 4.07(c).

“**affecting the Property**” shall have the meaning ascribed to such term in Section 4.12(a).

“**Agreement**” means this Loan Agreement dated as of the date hereof, as it may be amended, supplemented or otherwise modified from time to time.

“**Anti-Terrorism Regulations**” shall have the meaning ascribed to such term in Section 4.20(b).

“**Assignments of Leases**” means, collectively, each assignment of the lessor’s interest in leases and rents executed and delivered by Borrower in connection with an Individual Property for the benefit of Lender, as amended, supplemented, restated, or otherwise modified from time to time in accordance with the provisions hereof or thereof.

“**Assessments**” shall have the meaning ascribed to such term in Section 4.03(a).

“**Award**” shall have the meaning ascribed to such term in Section 4.08(b).

“**Bankruptcy Code**” shall mean Title 7 or 11 of the United States Code, as amended from time to time, or any similar federal or state laws now or later enacted for the relief of debtors.

“**Borrower**” means FelCor/CSS (SPE), L.L.C., a Delaware limited liability company.

“**Closing**” or “**Closing Date**” means the date of this Agreement.

“**Closing Certification**” means the Closing Certification executed and delivered by Borrower to Lender as of the date hereof in a form satisfactory to Lender.

“**Collateral Documents**” means, collectively, the Instruments, the Assignments of Leases, the Financing Statements, the Environmental and ERISA Indemnities, and all other instruments or documents now or hereafter granting Liens on property of Borrowers or any related entity for the benefit of Lender in connection with the Loan.

“**Daily Charge**” has the meaning ascribed to such term in Section 2.05.

“**Damage**” shall have the meaning ascribed to such term in Section 4.07(a).

“**Debt Service Coverage Ratio**” shall mean the ratio, as reasonably determined by Lender, calculated by dividing (i) NOI by (II) TADS.

“**Default Rate**” has the meaning ascribed to such term in the Notes.

“**Discount Rate**” is the rate which, when compounded monthly, is equivalent to the Treasury Rate (defined below), when compounded semi-annually, plus two hundred (200) basis points.

“**Documents**” means this Agreement, the Notes, the Collateral Documents, and any other document or certificate executed and delivered by any Borrower to Lender in connection with the transactions contemplated by this Agreement

“**Due Date**” shall have the meaning ascribed to such term in the Notes.

“**Environmental and ERISA Indemnity Agreement**” means, with respect to an Individual Property, the Environmental and ERISA Indemnity Agreement executed and delivered by Borrower to Lender, as amended, supplemented, restated, or otherwise modified from time to time in accordance with the provisions hereof or thereof.

“**Environmental Law**” shall have the meaning ascribed to such term in Section 4.12(a).

“**Environmental Liens**” shall have the meaning ascribed to such term in Section 4.12(b).

“**Environmental Report**” shall have the meaning ascribed to such term in Section 4.12(a).

“**Environmental Site Assessment**” means, with respect to an Individual Property, an assessment by an environmental consultant approved by Lender to determine the presence of hazardous material and/or wastes. Any Environmental Site Assessment shall comply with the Environmental Site Assessment Scope of Work Guidelines previously delivered by Lender to Borrowers, as the same may be amended, modified or supplemented by Lender from time to time.

“**ERISA**” shall have the meaning ascribed to such term in Section 4.11(a).

“**Executive Order 13224**” shall have the meaning ascribed to such term in Section 3.09.

“**FF&E**” shall have the meaning ascribed to such term in Section 4.13(a).

“**Financing Statement**” means, with respect to an Individual Property, a UCC-1 Financing Statement executed and delivered by Borrower, as amended, supplemented, restated, or otherwise modified from time to time in accordance with the provisions hereof or thereof.

“**First Disbursement**” has the meaning ascribed to such term in Section 2.02 hereof.

“**First Notice**” shall have the meaning ascribed to such term in Section 4.15(b).

“**FLLP**” means FelCor Lodging Limited Partnership, a Delaware limited partnership.

“**Flood Acts**” shall have the meaning ascribed to such term in Section 3.04.

“**FLTI**” means FelCor Lodging Trust Incorporated, a Maryland corporation.

“**Franchise Agreement**” shall mean, individually or collectively as the context may require, the franchise agreements between Lessee and Franchisor as more particularly described on Exhibit E attached hereto.

“**Franchisor**” shall mean Embassy Suites Franchise LLC.

“**Full replacement cost**” shall have the meaning ascribed to such term in Section 4.06(a).

“**Grace Period**” shall have the meaning ascribed to such term in Section 6.01(b).

“**Gross Annual Income**” shall mean all income, room revenues, food and beverage revenue, and telephone revenue computed in accordance with generally accepted accounting principles (uniform system of hotel accounting) derived from the ownership and operation of the Property, including, but not limited to, the rents, utility charges, service fees or charges, license fees, parking fees, rent concessions or credits, and other required pass-throughs, but excluding sales, use and occupancy or other taxes on receipts required to be accounted for by Borrower to any governmental authority, interest on the Reserve Funds, interest on credit accounts, refunds and uncollectible accounts, sales of furniture, fixtures and equipment, insurance proceeds (other than business interruption or other loss of income insurance), unforfeited security deposits, utility and other similar deposits, escalations, and any forfeited security deposits.

“**Hazardous Materials**” shall have the meaning ascribed to such term in Section 4.12(a).

“**Improvements**” means, collectively, all buildings, structures and improvements (including fixtures) now or later located in or on the Land.

“**Indebtedness**” means the principal of and all other amounts, payments and premiums due under the Notes, and all other indebtedness of Borrowers to Lender and any additional advances under, evidenced by and/or secured by the Loan Documents, plus interest accruing on all such amounts as provided in the Loan Documents.

“**Indemnified Parties**” shall mean (a) Lender, (b) any prior owner or holder of any Note, (c) any existing or prior servicer of the Loan, (d) any Trustee, (e) the officers, directors, shareholders, partners, members, employees and trustees of any of the foregoing, and (f) the heirs, legal representatives, successors and assigns of each of the foregoing.

“**Individual Beneficiaries**” shall have the meaning ascribed to such term in Section 3.09.

“**Individual Loan**” means the allocated loan amount identified with each Individual Property as reflected on Exhibit B attached hereto.

“**Individual Property**” means each property on which Lender has a Lien as security for the Loan. The Individual Properties as of the date hereof are set forth on Exhibit A-1 through Exhibit A-7 attached hereto.

“**Individual Shareholders**” shall have the meaning ascribed to such term in Section 3.09.

“**Insolvent**” shall mean that, on the relevant date, (i) the fair value of the assets of such person is less than the total amount of liabilities, including, without limitation, subordinated or contingent liabilities, of such person, (ii) the present fair saleable value of the assets of such person is less than the amount that will be required to pay the probable liability of such person on its debts and other liabilities, subordinated, contingent or otherwise, (iii) such person is unable to realize upon its assets and pay its debts and other liabilities (subordinated or otherwise), contingent obligations and other commitments as they become due, (iv) such person intends to, and believes that it will, incur debts or liabilities beyond such person’s ability to pay as such debts and liabilities become due, and (v) such person is engaged in a

business for which such person's property would constitute unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is proposed to be conducted after giving due consideration to the prevailing practice in the industry in which such person is engaged. In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount which, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"Instrument" means a deed of trust, mortgage, deed to secure debt or other similar instrument, executed and delivered by Borrower, as "Trustor," "Mortgagor," or "Grantor", for the benefit of Lender as "Beneficiary," "Mortgagee" or "Grantee", for an Individual Property, as amended, supplemented, restated, or otherwise modified from time to time in accordance with the provisions hereof or thereof.

"Instruments" means, collectively, each of the Instruments for the Individual Properties.

"Land" means, collectively, the real property described on Exhibit A-1 through Exhibit A-7.

"Late Charge" shall have the meaning ascribed to such term in Section 2.05.

"Laws" shall have the meaning ascribed to such term in Section 4.05(c).

"Leases" shall have the meaning ascribed to such term in the Assignment of Leases.

"Lender" means The Prudential Insurance Company of America, a New Jersey corporation, and its successors and assigns.

"Lien" means any mortgage, deed of trust, deed to secure debt, pledge security interest, encumbrance, lien or charge of any kind (including any agreement to give any of the foregoing), any conditional sale or other title retention agreement, any financing lease in the nature thereof, and the filing of or agreement to give any financing statement under the Uniform Commercial Code of any jurisdiction.

"Loan" means the loan evidenced and secured by the Loan Documents.

"Loan Application" means that certain First Mortgage Loan Application dated March 17, 2009 made by Borrower to Lender.

"Loan to Value Ratio" means the ratio, as reasonably determined by Lender, of (i) the aggregate principal balance of all encumbrances against the Property to (ii) the fair market value of the Property.

"Make-Whole Fees" shall mean (i) all franchise fees accrued and/or payable prior to the Property Transition Date; and (ii) all costs to cure (in accordance with any requirements under the Hotel Franchise Agreement) any delinquencies or deficiencies of an operational or capital nature accruing or arising prior to the Property Transition Date.

"Management Agreement" shall mean, individually or collectively as the context may require, the management agreements between Lessee and Manager as more particularly described on Exhibit E attached hereto.

"Manager" shall mean Embassy Suites Management LLC.

"Maturity Date" shall mean April 1, 2014.

"Microbial Matter" shall have the meaning ascribed to such term in Section 4.12(a).

“**Net Proceeds**” shall have the meaning ascribed to such term in Section 4.07(d).

“**NOI**” means the Gross Annual Income realized from operations of the Property for the applicable twelve (12) month period after subtracting all necessary and ordinary operating expenses (both fixed and variable) for that twelve (12) month period, including, without limitation, utilities, administrative expenses, cleaning, landscaping, security, repairs, and maintenance, ground rent payments, management fees, Reserve Funds, real estate and other taxes, assessments and insurance, but excluding deduction for federal, state and other income taxes, debt service expense, depreciation or amortization of capital expenditures, and other similar non-cash items. Documentation of NOI and expenses shall be certified by an officer of Borrower with detail satisfactory to Lender and shall be subject to the approval of Lender.

“**Note**” means, individually, any one of the Notes.

“**Notes**” means, collectively, each of (i) that certain Promissory Note dated even date herewith, in the original principal amount of \$91,814,929.00, executed by Borrower, as maker, and payable to Lender or its order (the “**Non-California Note**”), and (ii) that certain Promissory Note dated even date herewith, in the original principal amount of \$28,185,071.00, executed by Borrower, as maker, and payable to Lender or its order (the “**California Note**”).

“**OFAC**” shall have the meaning ascribed to such term in Section 3.09.

“**OFAC Lists**” shall have the meaning ascribed to such term in Section 3.09.

“**OFAC Violation**” shall have the meaning ascribed to such term in Section 4.20(c).

“**O&M**” shall have the meaning ascribed to such term in Section 4.12(b).

“**Organization State**” has the meaning ascribed to such term in Section 3.01.

“**Outside Date**” means June 15, 2009.

“**PCBs**” shall have the meaning ascribed to such term in Section 4.12(a).

“**Permitted Encumbrances**” shall have the meaning ascribed to such term in the Instruments.

“**Prepayment Premium**” shall have the meaning ascribed to such term in Section 2.07.

“**Primary Lease**” shall mean any of the Lease Agreements pursuant to which the Individual Properties have been leased by Borrower to DJONT Operations, LLC.

“**Principal Payment Amount**” shall have the meaning ascribed to such term in Section 5.03(c)

“**Property**” means, collectively, all of the Individual Properties.

“**Property Release**” shall have the meaning ascribed to such term in Section 5.03.

“**Property Transition Date**” shall have the meaning ascribed to such term in Section 7.01(k).

“**PTE**” shall have the meaning ascribed to such term in Section 4.11(a).

“**Recourse Parties**” means Borrower, FLLP and FLTI.

“**Recourse Party**” means any one of the Recourse Parties.

“**Refinance**” has the meaning ascribed to such term in Section 2.02(b).

“**Release**” shall have the meaning ascribed to such term in Section 4.12(a).

“**Release Price**” shall have the meaning ascribed to such term in Section 5.03(c)

“**Release Property**” shall have the meaning ascribed to such term in Section 5.03

“**Rent Loss Proceeds**” shall have the meaning ascribed to such term in Section 4.07(c).

“**Replacement Franchise Agreement**” shall have the meaning ascribed to such term in Section 4.25(e).

“**Restaurant Lease**” shall mean any Lease with a Restaurant Tenant.

“**Restaurant Tenants**” shall have the meaning ascribed to such term in Section 4.08(d).

“**Restoration**” shall have the meaning ascribed to such term in Section 4.07(a).

“**Second Disbursement**” has the meaning ascribed to such term in Section 2.02.

“**Second Notice**” shall have the meaning ascribed to such term in Section 4.15(d).

“**Special Notice Provisions**” shall have the meaning ascribed to such term in Section 4.10(e).

“**SPE Requirements**” shall have the meaning ascribed to such term in Section 3.14.

“**Title Policy**” means each Lender’s ALTA Lender’s policy of title insurance issued to Lender, ensuring the priority of the Instruments.

“**Taking**” shall have the meaning ascribed to such term in Section 4.08(a).

“**TADS**” means the aggregate debt service payments on the Loan (calculated using a 300 month amortization schedule) and on all other indebtedness secured, or to be secured, by any part of the Property calculated on a trailing twelve-month basis and adjusted for any reduction in principal of the Loan contemplated by Section 5.03.

“**Transaction Taxes**” shall have the meaning ascribed to such term in Section 4.03(c).

“**Treasury Rate**” is the semi-annual yield on the Treasury Constant Maturity Series with maturity equal to the remaining weighted average life of the Loan, for the week prior to the prepayment date, as reported in Federal Reserve Statistical Release H.15 - Selected Interest Rates, conclusively determined by Lender (absent a clear mathematical calculation error) on the prepayment date. The rate will be determined by linear interpolation between the yields reported in Release H.15, if necessary. If Release H.15 is no longer published, Lender shall select a comparable publication to determine the Treasury Rate.

“**U.C.C.**” has the meaning ascribed to such term in Section 3.02.

“**Violation**” shall have the meaning ascribed to such term in Section 4.11(c).

MORTGAGE AND SECURITY AGREEMENT * **UNITED STATES OF AMERICA**
 *
BY *
 *
FELCOR/CSS (SPE), L.L.C., a Delaware limited * **STATE OF _____**
 liability company, and **DJONT OPERATIONS,** *
L.L.C., a Delaware limited liability company * **COUNTY OF _____**
 *
 * * * * *

BE IT KNOWN, that on this ____ day of March, 2009, to be effective as of March _____, 2009;

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared:

FELCOR/CSS (SPE), L.L.C., a Delaware limited liability company, (“**Borrower**”) and **DJONT OPERATIONS, L.L.C.**, a Delaware limited liability company, (“**Lessee**”) each having its principal office and place of business at 545 E. John Carpenter Freeway, Suite 1300, Irving, Texas 75062; and each represented by its duly authorized officer pursuant to the resolution/consent attached hereto on Schedule 1 and Schedule 2, respectively, and made a part hereof.;

which declared that Borrower and Lessee do, by these presents declare and acknowledge an indebtedness unto:

THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, a New Jersey corporation, having an office at 2200 Ross Avenue, Suite 4900E, Dallas, Texas 75201, as lender (hereinafter referred to as the “**Lender**”);

RECITALS:

1. Concurrent herewith, Borrower and Lender are entering into a Loan Agreement (the “**Loan Agreement**”) governing a loan from Lender to Borrower in an amount up to \$120,000,000.00 (the “**Loan**”). Lessee is a party to the Loan Agreement pursuant to that certain Joinder attached thereto and made a part thereof. The Loan is evidenced by one or more Promissory Notes executed on the same date as this Instrument (collectively, the “**Note**”) made by Borrower to Lender in the principal sum of One Hundred Twenty Million U.S. Dollars (\$120,000,000.00). Any capitalized term used but not defined in this Mortgage and Security Agreement (this “**Instrument**”) shall have the meaning ascribed to such term in the Loan Agreement.

2. The Note evidences a Loan requested by Borrower, and which Lender has agreed to make, on the understanding and condition that the indebtedness evidenced by the Note and all of the other Obligations (as defined in Section 1.01) are secured by, among other things, a portfolio of hotel properties, which includes (i) the Property (as hereinafter defined) encumbered by this Instrument, and (ii) the other properties identified in Exhibit E attached hereto (upon which Borrower is executing and delivering concurrently herewith mortgage instruments similar to this Instrument) (the Property and the other hotel properties listed in Exhibit E are collectively referred to as the “**Hotel Properties**”).

3. The Property is subject to the Primary Lease (as hereinafter defined), pursuant to which the Lessee holds a leasehold estate in all of the Land and Improvements and operates the Property (pursuant to the Management Agreement and Franchise Agreement) as an “Embassy Suites Hotel” (all of the foregoing defined terms having the definitions set forth in Exhibit A attached hereto). The Lessee owns certain of the Personal Property, Leases, Rents, and other Property that is the subject of this Instrument.

4. Lender is willing to make the Loan to Borrower only if Lessee assigns and sets over to Lender and grants to Lender a security interest in the Personal Property, Leases, Rents and other assets owned by Lessee.

5. Lender is relying on the undertakings and agreements of Lessee as set forth in this Instrument in agreeing to make the Loan, and in funding the Loan, to Borrower.

6. Subject to Borrower’s right to obtain a property release upon Borrower’s satisfaction of the conditions contained in Section 5.03 of the Loan Agreement, it is intended that the indebtedness evidenced by the Note and all of the other obligations of Borrower under all of the Documents are not to be apportioned among any of the Hotel Properties, or any of the security of the mortgages thereon, so that each of the Hotel Properties and each and every lien, assignment and security interest thereon is intended to secure the entire amount of such indebtedness and obligations.

IN CONSIDERATION of the principal sum of the Note, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, each of Borrower and Lessee:

A. do by these presents, with power of sale, specially mortgage, effect, assign, hypothecate and grant a continuing security interest unto and in favor of Lender in the following property, rights, interests and estates owned by Borrower or Lessee (collectively, the “**Property**”), it being expressly provided that certain of the Personal Property, Leases, Rents, and other Property described in paragraphs (v) through (xi) below is presently owned or held by Lessee (collectively, the “**Lessee Personal Property**”) pursuant to the Primary Lease, rather than Borrower:

(i) All of Borrower's fee estate and all of Lessee's leasehold estate and their respective other rights, title, and interests in and to the real property in _____ and described in Exhibit B (the "**Land**");

(ii) All of Borrower's fee estate and all of Lessee's leasehold estate and their respective rights, title, and interests in and to all buildings, structures, parking facilities and other improvements (including fixtures) now or later located in or on the Land ("**Improvements**");

(iii) All of Borrower's fee estate and all of Lessee's leasehold estate and their respective rights, title, and interests in all easements, estates, and real property interests including hereditaments, servitudes, appurtenances, tenements, mineral and oil/gas rights, water rights, air rights, development power or rights, options, reversion and remainder rights, and any other rights owned by either Borrower or Lessee and relating to or usable in connection with or access to the Property;

(iv) All right, title, and interest of Borrower and Lessee in and to all land lying within the rights-of-way, roads, or streets, open or proposed, adjoining the Land to the center line thereof, and all sidewalks, alleys, and strips and gores of land adjacent to or used in connection with the Property;

(v) All right, title, and interest of Borrower and Lessee in, to, and under all plans, specifications, surveys, studies, reports, permits, licenses, agreements, contracts, instruments, books of account, insurance policies, and any other documents relating to the use, construction, occupancy, leasing, or operation of the Property;

(vi) All of the furniture, furnishings, fixtures, inventory and equipment located on or used in connection with the Property, including the fixtures and personal property, contractual rights, rights to payment or recovery, books and records, permits and licenses, plans and manuals, funds in accounts held by or for the benefit of Borrower and/or Lessee, and all other intangible personal property required or used in the operation of the Property and owned by Borrower and/or Lessee (except that neither Borrower nor Lessee shall be obligated to endorse the titles to vehicles provided that the value thereof does not exceed \$150,000.00), and expressly including the property described in Exhibit C and replacements thereof; but excluding all personal property owned by any tenant (a "**Tenant**") of the Property;

(vii) All of Borrower's and Lessee's right, title and interest in the proceeds (including conversion to cash or liquidation claims) of (A) insurance relating to the Property and (B) all awards made for the taking by eminent domain (or by any proceeding or purchase in lieu thereof) of the Property, including awards resulting from a change of any streets (whether as to grade, access, or otherwise) and for severance damages;

(viii) All of Borrower's and Lessee's right, title and interest in tax refunds, including interest thereon, tax rebates, tax credits, and tax abatements, and the right to receive the same, which may be payable or available with respect to the Property;

(ix) All leasehold estates, ground leases, leases (including, without limitation, the Primary Lease), subleases, including without limitation, any and all reservations, security interests, contractual liens and security deposits, licenses, or other agreements affecting the use, enjoyment or occupancy of the Property now or later existing (including any use or occupancy arrangements created pursuant to Title 7 or 11 of the United States Code, as amended from time to time, or any similar federal or state laws now or later enacted for the relief of debtors (the "**Bankruptcy Code**") and all extensions and amendments thereto under which either Borrower or Lessee is the landlord, lessee, or licensor (collectively,

the “**Leases**”) and all of Borrower’s and Lessee’s right, title and interest under the Leases, including all guaranties thereof;

(x) All rents, income and other revenues, including, without limitation, room rents, revenues, accounts, issues, profits, royalties, receivables derived from the use or occupancy of all or any portion of the Improvements (including all oil, gas or other mineral royalties and bonuses), other benefits now or later derived from any portion or use of the Property (including any payments received with respect to any Tenant or the Property pursuant to the Bankruptcy Code), and all cash, security deposits, advance rentals, or similar payments relating thereto, all revenues and credit card receipts collected from guest rooms, restaurants, bars, meeting rooms, banquet rooms and recreational facilities, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of the Property or rendering of services by Borrower, Lessee, or any operator or manager of the hotel or the commercial space located in the Improvements or acquired from others (including, without limitation, from the rental of any office space, retail space, guest rooms or other space, halls, stores, and offices, and deposits securing reservations of such space), license, lease, sublease and concession fees and rentals, parking fees and revenues, health club membership fees, food and beverage wholesale and retail sales (including mini-bar revenues), service charges, vending machine sales and proceeds, if any, from business interruption or other loss of income insurance (collectively, the “**Rents**”) and all proceeds from the cancellation, termination, surrender, sale or other disposition of the Leases, and the right to receive and apply the Rents to the payment of the Obligations; and

(xi) All of Borrower’s or Lessee’s rights and privileges heretofore or hereafter otherwise arising in connection with or pertaining to the Property, including, without limiting the generality of the foregoing, all water and/or sewer capacity, all water, sewer and/or other utility deposits or prepaid fees, and/or all water and/or sewer and/or other utility tap rights or other utility rights, any right or privilege of Borrower or Lessee under any loan commitment, lease, contract, declaration of covenants, restrictions and easements or like instrument, developer’s agreement, or other agreement with any third party pertaining to the ownership, development, construction, operation, maintenance, marketing, sale or use of the Property.

B. Absolutely and unconditionally assigns, sets over, and transfers to Lender all of Borrower’s and Lessee’s right, title, interest and estates in and to the Leases and the Rents, subject to the terms and license granted to Borrower and Lessee under that certain Assignment of Leases and Rents made by Borrower to Lender dated the same date as this Instrument and to which Lessee joined pursuant to that certain Joinder attached thereto and made a part thereof (the “**Assignment**”), which document shall govern and control the provisions of this assignment.

TO HAVE AND TO HOLD the Property unto Lender and its successors and assigns forever, subject to the matters listed in Exhibit D (“**Permitted Encumbrances**”) and the provisions, terms and conditions of this Instrument.

PROVIDED, HOWEVER, if Borrower shall pay and perform the Obligations as provided for in the Documents (defined below) and shall comply with all the provisions, terms and conditions in the Documents, these presents and the estates hereby granted by Lessee and Borrower (except for the obligations of Borrower set forth in this Instrument that expressly survive repayment of the Obligations) shall cease, terminate and be void; but otherwise the same shall remain in full force and effect.

IN FURTHERANCE of the foregoing, each of Borrower and Lessee warrants, represents, covenants and agrees as follows:

ARTICLE I - OBLIGATIONS

Section 1.01 Obligations. This Instrument is executed, acknowledged, and delivered by Borrower and Lessee to secure and enforce the following obligations (collectively, the “**Obligations**”):

(a) Payment of all obligations, indebtedness and liabilities under the Documents including (i) the Prepayment Premium (as defined in the Loan Agreement), (ii) interest at both the rate specified in the Note and at the Default Rate (as defined in the Note), if applicable and to the extent permitted by Laws (defined below), and (iii) renewals, extensions, and amendments of the Documents;

(b) Performance of every obligation, covenant, and agreement under the Documents including renewals, extensions, and amendments of the Documents; and

(c) Payment of all sums advanced (including costs and expenses) by Lender pursuant to the Documents including any and all future advances under the Note and all renewals, extensions, and amendments of the Documents.

Section 1.02 Documents. The “**Documents**” shall mean this Instrument, the Loan Agreement, the Note, the Assignment, Other Mortgages, and any other written agreement executed in connection with the Loan including, without limitation, the Recourse Liabilities Guaranty, Environmental and ERISA Indemnity Agreement, Closing Certification, Cash Management Agreement, comfort letters, subordination of management agreements, and UCC financing statements (but excluding the Loan application and Loan commitment) and by the party against whom enforcement is sought, including those given to evidence or further secure the payment and performance of any of the Obligations, and any written renewals, extensions, and amendments of the foregoing, executed by the party against whom enforcement is sought. All of the provisions of the Documents are incorporated into this Instrument as if fully set forth in this Instrument.

ARTICLE II - ADDITIONAL ADVANCES; EXPENSES; SUBROGATION

Section 1.03 Expenses and Advances. Except as otherwise provided in the Documents, Borrower shall pay all reasonable appraisal, recording, filing, registration, brokerage, abstract, title insurance (including premiums), title searches and examinations, surveys and similar data and assurances with respect to title, U.C.C. search, escrow, attorneys’ (both in-house staff and retained attorneys), engineers’, environmental engineers’, environmental testing, and architects’ fees, costs (including travel), expenses, and disbursements incurred by Borrower or Lender and reasonable fees charged by Lender in connection with the granting, closing, servicing (other than routine loan servicing performed in the ordinary course of business and for the performance of which Lender is not routinely reimbursed by other borrowers in the ordinary course of Lender’s business), and enforcement of (a) the Loan and the Documents or (b) attributable to either Borrower or Lessee as owner of the Property. The term “**Costs**” shall mean any of the foregoing incurred in connection with (a) any default by Borrower under the Documents, (b) the routine (other than routine loan servicing performed in the ordinary course of business and for the performance of which Lender is not routinely reimbursed by other borrowers in the ordinary course of Lender’s business) servicing of the Loan, or (c) the exercise, enforcement, compromise, defense, litigation, or settlement of any of Lender’s rights or remedies under the Documents or relating to the Loan or the Obligations. Notwithstanding, the foregoing, other than during the continuance of an Event of Default, any travel costs associated with Lender’s right to examine, audit and copy the books and records of Borrower or Lessee shall be borne by Lender. If Borrower fails to pay any amounts or perform any actions required under the Documents, Lender may (but shall not be obligated to) advance sums to pay such amounts or perform such actions. Each of Borrower and Lessee grants Lender the right to enter upon and take possession of the

Property to prevent or remedy any such failure and the right to take such actions in Borrower's or Lessee's name. No advance or performance shall be deemed to have cured a default by Borrower or Lessee. All (a) sums advanced by or payable to Lender per this Section or under applicable Laws, (b) except as expressly provided in the Documents, payments due under the Documents which are not paid in full when due, and (c) all Costs, shall: (i) be deemed demand obligations, (ii) bear interest from the date of demand at the Default Rate, until paid if not paid on demand, (iii) be part of, together with such interest, the Obligations, and (iv) be secured by the Documents. Lender, upon making any such advance, shall also be subrogated to rights of the person receiving such advance.

Section 1.04 Subrogation. If any proceeds of the Note were used to extinguish, extend or renew any indebtedness on the Property, then, to the extent of the funds so used, (a) Lender shall be subrogated to all rights, claims, liens, titles and interests existing on the Property held by the holder of such indebtedness and (b) these rights, claims, liens, titles and interests are not waived but rather shall (i) continue in full force and effect in favor of Lender and (ii) are merged with the lien and security interest created by the Documents as cumulative security for the payment and performance of the Obligations.

ARTICLE II - SALE, TRANSFER, OR ENCUMBRANCE OF THE PROPERTY; PARTIAL RELEASE

Section 2.01 Due-on-Sale or Encumbrance; Partial Release. The terms and conditions of Section 5.01, 5.02 and 5.03 of the Loan Agreement relating to due on sale, encumbrance, transfers and partial release of the Property are hereby incorporated into this Instrument as if fully set forth herein.

ARTICLE III - DEFAULTS AND REMEDIES

Section 3.01 Events of Default. Any Event of Default (as such term is defined in the Loan Agreement) shall be an Event of Default under this Instrument.

Section 3.02 Remedies. If an Event of Default occurs, Lender or any person designated by Lender may (but shall not be obligated to) take any action (separately, concurrently, cumulatively, and at any time and in any order) permitted under any Laws, without notice, demand, presentment, or protest (all of which are hereby waived), to protect and enforce Lender's rights under the Documents or Laws including the following actions:

(a) accelerate and declare the entire unpaid Obligations immediately due and payable, except for defaults under Section 6.01 (e) and (f) of the Loan Agreement which shall automatically make the Obligations immediately due and payable by Borrower;

(b) (i) judicially or otherwise, (i) completely foreclose this Instrument or (ii) partially foreclose this Instrument for any portion of the Obligations due and the lien and security interest created by this Instrument shall continue unimpaired and without loss of priority as to the remaining Obligations not yet due;

(c) sell for cash or upon credit the Property and all right, title and interest of Borrower or Lessee therein and rights of redemption thereof, pursuant to power of sale;

(d) recover judgment on the Note either before, during or after any proceedings for the enforcement of the Documents and without any requirement of any action being taken to (i) realize on the Property or (ii) otherwise enforce the Documents;

(e) seek specific performance of any provisions in the Documents;

(f) apply for the appointment of a receiver, custodian, trustee, liquidator, or conservator of the Property without (i) notice to any person, (ii) regard for (A) the adequacy of the security for the Obligations or (B) the solvency of Borrower, Lessee or any other person liable for the payment of the Obligations; and Borrower, Lessee and any other person so liable waives or shall be deemed to have waived the foregoing and any other objections to the fullest extent permitted by Laws and consents or shall be deemed to have consented to such appointment;

(g) with or without entering upon the Property, (i) exclude Borrower, Lessee and any other person from the Property without liability for trespass, damages, or otherwise, (ii) take possession of, and Borrower and Lessee shall agree to surrender on demand, all books, records, and accounts relating to the Property, (iii) give notice to Tenants or any person, make demand for, collect, receive, sue for, and recover in its own name all Rents and cash collateral derived from the Property; (iv) use, operate, manage, preserve, control, and otherwise deal with every aspect of the Property including (A) conducting its business, (B) insuring it, (C) making all repairs, renewals, replacements, alterations, additions, and improvements to or on it, (D) completing the construction of any Improvements in manner and form as Lender deems advisable, (E) executing, modifying, enforcing, and terminating new and existing Leases on such terms as Lender deems advisable and evicting any Tenants in default, and (F) executing, modifying, enforcing and terminating the Management Agreement, Franchise Agreement or any other management agreement or franchise agreement for the operation of the Property, as Lender deems advisable; (v) apply the receipts from the Property to payment of the Obligations, in any order or priority determined by Lender, after first deducting all Costs, expenses, and liabilities incurred by Lender in connection with the foregoing operations and, all amounts needed to pay the Impositions and other expenses of the Property, as well as just and reasonable compensation for the services of Lender and its attorneys, agents, and employees; and/or (vi) in every case in connection with the foregoing, exercise all rights and powers of Borrower, Lessee or Lender with respect to the Property, either in Borrower's or Lessee's name or otherwise;

(h) release any portion of the Property for such consideration, if any, as Lender may require without, as to the remainder of the Property, impairing or affecting the lien or priority of this Instrument or improving the position of any subordinate lienholder with respect thereto, except to the extent that the Obligations shall have been actually reduced, and Lender may accept by assignment, pledge, or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder;

(i) apply any Deposits to the following items in any order and in Lender's sole discretion: (A) the Obligations, (B) Costs, (C) advances made by Lender under the Documents, and/or (D) Impositions;

(j) take all actions permitted under the U.C.C. of the state where the Property is located (the "**Property State**") including (i) the right to take possession of all tangible and intangible personal property now or hereafter included within the Property ("**Personal Property**") and take such actions as Lender deems advisable for the care, protection and preservation of the Personal Property and (ii) request Borrower and/or Lessee at its expense to assemble the Personal Property and make it available to Lender at a convenient place acceptable to Lender. Any notice of sale, disposition or other intended action by Lender with respect to the Personal Property sent to Borrower or Lessee at least ten (10) days prior to such action shall constitute commercially reasonable notice to Borrower or Lessee; or

(k) take any other action permitted under any Laws or any other Document.

If Lender exercises any of its rights under Section 4.02(g), Lender shall not (a) be deemed to have entered upon or taken possession of the Property except upon the exercise of its option to do so, evidenced by its

demand and overt act for such purpose; (b) be deemed a beneficiary or mortgagee in possession by reason of such entry or taking possession; nor (c) be liable (i) to account for any action taken pursuant to such exercise other than for Rents actually received by Lender, (ii) for any loss sustained by Borrower or Lessee resulting from any failure to lease the Property, or (iii) any other act or omission of Lender except for losses caused by Lender's willful misconduct or gross negligence. Each of Borrower and Lessee hereby consents to, ratifies, and confirms the exercise by Lender of their respective rights under this Instrument and appoint Lender as their attorney-in-fact, which appointment shall be deemed to be coupled with an interest and irrevocable, for such purposes.

Section 3.03 Expenses. All Costs, expenses, or other amounts paid or incurred by Lender in the exercise of its rights under the Documents, together with interest thereon at the applicable interest rate specified in the Note, which shall be the Default Rate unless prohibited by Laws, shall be (a) part of the Obligations, (b) secured by this Instrument, and (c) allowed and included as part of the Obligations in any foreclosure, decree for sale, power of sale, or other judgment or decree enforcing Lender's rights under the Documents.

Section 3.04 Rights Pertaining to Sales. To the extent permitted under (and in accordance with) any Laws, the following provisions shall, as Lender may determine in its sole discretion, apply to any sales of the Property under this Article IV, whether by judicial proceeding, judgment, decree, power of sale, foreclosure or otherwise: (a) Lender may conduct multiple sales of any part of the Property in separate tracts or in its entirety and each of Borrower and Lessee hereby waives any right to require otherwise; (b) any sale may be postponed or adjourned by public announcement at the time and place appointed for such sale or for such postponed or adjourned sale without further notice; and (c) Lender may acquire the Property and, in lieu of paying cash, may pay by crediting against the Obligations the amount of its bid, after deducting therefrom any sums which Lender is authorized to deduct under the provisions of the Documents.

Section 3.05 Application of Proceeds. Any proceeds received from any sale or disposition under this Article IV or otherwise, together with any other sums held by Lender, shall, except as expressly provided to the contrary, be applied in the order determined by Lender to: (a) payment of all Costs and expenses of any enforcement action or foreclosure sale, transfer of title by power of sale, or otherwise, including interest thereon at the applicable interest rate specified in the Note, which shall be the Default Rate unless prohibited by Laws, (b) all taxes, Assessments, and other charges unless the Property was sold subject to these items; (c) payment of the Obligations in such order as Lender may elect; (d) payment of any other sums secured or required to be paid by Borrower; and (e) payment of the surplus, if any, to any person lawfully entitled to receive it. Borrower and Lender intend and agree that during any period of time between any foreclosure judgment that may be obtained and the actual foreclosure sale that the foreclosure judgment will not extinguish the Documents or any rights contained therein including the obligation of Borrower to pay all Costs and to pay interest at the applicable interest rate specified in the Note, which shall be the Default Rate unless prohibited by Laws.

Section 3.06 Additional Provisions as to Remedies.

(a) Subject to Borrower's right to obtain a property release upon Borrower's satisfaction of the conditions contained in Section 5.03 of the Loan Agreement, the Obligations and Indebtedness under all of the Documents are not intended to be, and shall not be, apportioned among any of the Hotel Properties, or any of the other security of Lender for the Loan, so that each of the Hotel Properties and each and every other lien, assignment, and security interest is intended to secure the entire amount of the Indebtedness. In no event shall any internal apportionment or allocation by Lender of the Indebtedness among the Hotel Properties, whether for purposes of Lender's underwriting, analysis, or administration of the Loan or otherwise, be binding on Lender for any purpose.

(b) Upon an Event of Default, Lender shall be entitled to foreclose against any one or more of the Hotel Properties in any order, as Lender shall elect in its sole and absolute discretion, and no election by Lender to foreclose against fewer than all of the Hotel Properties shall constitute or be deemed to be (i) an election of remedies by Lender or (ii) a waiver of Lender's right to foreclose against any of the other Hotel Properties. Without in any manner limiting Lender's remedies, Lender shall be entitled to commence separate actions for foreclosure in any or all of the different jurisdictions in which the Hotel Properties are located, either concurrently or successively as Lender shall elect in its sole and absolute discretion. Each of Borrower and Lessee hereby waives any and all rights to object to Lender maintaining multiple actions for foreclosure and/or collection of the Indebtedness (or, to the extent any such rights or provisions are not waivable as a matter of law, each of Borrower and Lessee stipulates and agrees that such provisions shall not be interpreted to prevent Lender from commencing, maintaining, and pursuing to judgment multiple actions for foreclosure and collection of the Indebtedness in the different jurisdictions in which the Hotel Properties are located, subject to Lender applying the amounts realized in any such foreclosures to the Indebtedness and Obligations as provided in this Instrument and the Other Mortgages).

(c) In addition, upon the entry of any judgment of foreclosure against any one or more (but fewer than all) of the Hotel Properties and the completion of the sale of such Hotel Properties (including any necessary proceedings subsequent to such sale in order to confirm or approve the same), the Amount Realized Upon Foreclosure (as hereinafter defined) shall be applied to the Indebtedness and Obligations in the manner provided in this Instrument and the Other Mortgages, and the remaining Indebtedness and Obligations which remain unsatisfied after each and any such application of the Amount Realized Upon Foreclosure of such Hotel Properties shall continue to be secured by this Instrument or the Other Mortgages (as the case may be) as to which a foreclosure judgment and sale shall not have been entered and completed as aforesaid, until all of the Indebtedness and Obligations shall be satisfied in full. For purposes of this Instrument and all Other Mortgages, the "**Amount Realized Upon Foreclosure**" as used in the preceding sentence with respect to any of the Hotel Properties shall mean the amount of the successful bid in any foreclosure sale with respect to the applicable Hotel Properties, as confirmed in any confirmation of the foreclosure sale in the applicable foreclosure proceedings, or, if no confirmation proceedings are available under the laws and procedures applicable to such foreclosure, then as otherwise customarily determined under the applicable laws and procedures (including by way of return of sale or deficiency judgment), without regard to whether the successful bid is made by Lender, any agent or affiliate of Lender, or any other person. Without limiting any other remedies of Lender, Borrower and Lessee agree that, to the extent permitted by applicable law, Lender shall be entitled to obtain a deficiency judgment against either Borrower or Lessee, or both Borrower and Lessee, in any foreclosure proceedings for the purpose of obtaining a judicial determination of the Amount Realized Upon Foreclosure in any such foreclosure proceedings.

(d) It is further agreed that if default be made in the payment of any part of the Indebtedness secured by this Instrument, as an alternative to the right of foreclosure for the full Indebtedness after acceleration thereof, Lender shall have the right to institute partial foreclosure proceedings with respect to any portion or portions of said Indebtedness so in default (either for recovery of those payments or installments which shall then be due and payable, without acceleration of the Note, or for recovery of such payments and amounts due under the Note as Lender may elect to accelerate, without accelerating the entire Note) against any one or more of the Hotel Properties, as Lender may elect, as if under a full foreclosure, and without declaring the entire Indebtedness due (such proceeding being hereinafter referred to as a "**partial foreclosure**"), and provided that if foreclosure judgment is entered with respect to the Property pursuant to a partial foreclosure proceeding because of a default of a part of the Indebtedness, such judgment and sale pursuant thereto may be made subject to the continuing lien of each of the Other Mortgages for the unmatured part of the Indebtedness; and it is agreed that such judgment or sale pursuant to a partial foreclosure, if so made, shall not in any manner affect the unmatured or unaccelerated part of the Indebtedness, but as to such unmatured or unaccelerated part, this Instrument (to the extent foreclosure

and sale shall not have been made against all of the Property encumbered hereby) and each of the Other Mortgages and the liens thereof shall remain in full force and effect just as though no foreclosure judgment or sale had been entered or made under the provisions of this Section. Notwithstanding the filing of any partial foreclosure or entry of a judgment of foreclosure therein, Lender may elect at any time prior to a foreclosure sale pursuant to such judgment, to discontinue such partial foreclosure and to accelerate the Indebtedness by reason of any uncured default or defaults upon which such partial foreclosure was predicated or by reason of any other defaults, and proceed with full foreclosure proceedings. It is further agreed that several foreclosure sales may be made pursuant to partial foreclosure without exhausting the right of full or partial foreclosure sale for any unmatured part of the secured indebtedness, it being the purpose to provide for a partial foreclosure sale of the Indebtedness for any matured or accelerated portion of the Indebtedness without exhausting the power to foreclose and to sell any of the Property or any of the other Hotel Properties pursuant to any such partial foreclosure for any other part of the Indebtedness whether matured at the time or subsequently maturing, and without exhausting any right of acceleration and full foreclosure.

(e) No failure, refusal, waiver, or delay by Lender to exercise any rights under the Documents upon any default or Event of Default shall impair Lender's rights or be construed as a waiver of, or acquiescence to, such or any subsequent default or Event of Default. No recovery of any judgment by Lender and no levy of an execution upon the Property or any other property of Borrower or Lessee shall affect the lien and security interest created by this Instrument and such liens, rights, powers, and remedies shall continue unimpaired as before. Lender may resort to any security given by this Instrument or any other security now given or hereafter existing to secure the Obligations, in whole or in part, in such portions and in such order as Lender may deem advisable, and no such action shall be construed as a waiver of any of the liens, rights, or benefits granted hereunder. Acceptance of any payment after any Event of Default shall not be deemed a waiver or a cure of such Event of Default and such acceptance shall be deemed an acceptance on account only. If Lender has started enforcement of any right by foreclosure, sale, entry, or otherwise and such proceeding shall be discontinued, abandoned, or determined adversely for any reason, then Borrower, Lessee and Lender shall be restored to their former positions and rights under the Documents with respect to the Property, subject to the lien and security interest hereof.

Section 3.07 Waiver of Rights and Defenses. To the fullest extent Borrower and Lessee may do so under Laws, (a) neither Borrower nor Lessee will at any time insist on, plead, claim, or take the benefit of (i) any statute or rule of law now or later enacted providing for any appraisal, valuation, stay, extension, moratorium, redemption, or (ii) any statute of limitations; (b) each of Borrower and Lessee, for itself, its successors and assigns, and for any person ever claiming an interest in the Property (other than Lender), waives and releases all rights of redemption, reinstatement, valuation, appraisal, notice of intention to mature or declare due the whole of the Obligations, all rights to a marshaling of the assets of Borrower or Lessee, including the Property, or to a sale in inverse order of alienation, in the event of foreclosure (or extinguishment by transfer of title by power of sale) of the liens and security interests created under the Documents; and (c) neither Borrower nor Lessee shall not be relieved of its obligation to pay the Obligations as required in the Documents nor shall the lien or priority of the Documents be impaired by any agreement renewing, extending, or modifying the time of payment or the provisions of the Documents (including a modification of any interest rate), unless expressly released, discharged, or modified by such agreement. Regardless of consideration and without any notice to or consent by the holder of any subordinate lien, security interest, encumbrance, right, title, or interest in or to the Property, Lender may (y) release any person liable for payment of the Obligations or any portion thereof or any part of the security held for the Obligations or (z) modify (with the agreement of Borrower, Lessee or other applicable Party or Parties thereto) any of the provisions of the Documents without impairing or affecting the Documents or the lien, security interest, or the priority of the modified Documents as security for the Obligations over any such subordinate lien, security interest, encumbrance, right, title, or interest.

ARTICLE IV - SECURITY AGREEMENT

Section 4.01 Security Agreement. This Instrument constitutes both a real property mortgage and a “security agreement” within the meaning of the U.C.C. The Property includes real and personal property and all tangible and intangible rights and interest of Borrower and Lessee in the Property. Borrower and Lessee grant to Lender, as security for the Obligations, a security interest in the Personal Property to the fullest extent that the same may be subject to the U.C.C. Each of Borrower and Lessee authorizes Lender to file any financing or continuation statements and amendments thereto relating to the Personal Property without the signature of Borrower or Lessee if permitted by Laws.

Section 4.02 Fixture Filing. This Instrument, upon recording or registration in the real estate records of the proper office, shall constitute a “fixture filing” within the meaning of Section 9-334 and 9-502 of the U.C.C. with respect to any and all fixtures included within the term “Property” and any Personal Property that may now be or hereafter become “fixtures” within the meaning of Section 9-102 of the U.C.C.

ARTICLE V - ADDITIONAL PROVISIONS

Section 5.01 Notices. Any notice, request, demand, consent, approval, direction, agreement, or other communication (any “notice”) required or permitted under this Instrument shall be in writing and shall be validly given if sent by a nationally-recognized courier that obtains receipts, delivered personally by a courier that obtains receipts, or mailed by United States certified mail (with return receipt requested and postage prepaid) addressed to the applicable person as follows:

If to Borrower:

FelCor Lodging Trust Incorporated
545 E. John Carpenter Freeway, Suite 1300
Irving, Texas 75062
Attention: Jonathon Yellen, Executive Vice
President and General Counsel

With a copy of notices sent to Borrower to:

Akin Gump Strauss Hauer & Feld LLP
1700 Pacific Avenue., Suite 4100
Dallas, Texas 75201-4675
Attention: Robert W. Dockery, Esq.

If to Lessee:

FelCor Lodging Trust Incorporated
545 E. John Carpenter Freeway, Suite 1300
Irving, Texas 75062
Attention: Jonathon Yellen, Executive Vice
President and General Counsel

With a copy of notices sent to Lessee to:

Akin Gump Strauss Hauer & Feld LLP
1700 Pacific Avenue., Suite 4100
Dallas, Texas 75201-4675
Attention: Robert W. Dockery, Esq.

If to Lender:

THE PRUDENTIAL INSURANCE COMPANY
OF AMERICA
Prudential Asset Resources
2100 Ross Avenue, Suite 2500
Dallas, Texas 75201
Attention: Asset Management Department
Reference Loan No. 706108165

With a copy of notices sent to Lender to:

THE PRUDENTIAL INSURANCE COMPANY
OF AMERICA
Prudential Asset Resources
2100 Ross Avenue, Suite 2500
Dallas, Texas 75201
Attention: Legal Department
Reference Loan No. 706108165

Each notice shall be effective upon being so sent, delivered, or mailed, but the time period for response or action shall run from the date of receipt as shown on the delivery receipt. Refusal to accept delivery or the inability to deliver because of a changed address for which no notice was given shall be deemed receipt. Any party may periodically change its address for notice and specify up to two (2) additional addresses for copies by giving the other party at least ten (10) days' prior notice.

Section 5.02 Governing Law. Matters relating to priority, perfection and enforcement of this Instrument shall be governed by and construed in accordance with the laws of the state of _____ and the applicable laws of the United States of America. Except as provided in the preceding sentence, this Instrument shall be governed and construed in accordance with the laws of the state of New York and the applicable laws of the United States of America.

Section 5.03 Transfer of Loan.

(a) Lender may, at any time, (i) sell, transfer or assign the Documents and any servicing rights with respect thereto or (ii) grant participations therein or issue mortgage pass-through certificates or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement (collectively, the "**Securities**"). Lender may forward to any purchaser, transferee, assignee, servicer, participant, or investor in such Securities (collectively, "**Investors**"), to any Rating Agency (defined below) rating such Securities and to any prospective Investor, all documents and information which Lender now has or may later acquire relating to the Obligations, Borrower, Lessee, any guarantor, any indemnitor(s), the Leases, and the Property, whether furnished by Borrower, Lessee, any guarantor, any indemnitor(s) or otherwise, as Lender determines advisable. As a precondition to the receipt of any non-public or otherwise confidential information about Borrower, Lessee, any guarantor, any indemnitor(s), the Leases, and the Property, such Investors shall agree to be bound by a confidentiality agreement. At the request of Lender, Borrower, Lessee, any guarantor and any indemnitor agree to cooperate with Lender in connection with any transfer made or any Securities created pursuant to this Section including the delivery of an estoppel certificate in accordance with Section 4.16 of the Loan Agreement and such other representations, warranties, agreements and documents as are customary and usual in the marketplace or as may be reasonably required by Lender or any Rating Agency in connection with any transfer made or any Securities created pursuant to this Section, and shall use diligent efforts to obtain such documents and agreement from Tenants and other third parties as may be reasonably requested; provided, that Borrower shall not be required to incur (i) any liability beyond the scope of the Documents, or (ii) any material unreasonable expense (unless the same is reimbursed by Lender). For purposes of the preceding sentence, any expense in excess of \$5,000 shall be deemed a "**material unreasonable expense**". "**Rating Agency**" shall mean any one or more credit rating agencies approved by Lender.

(b) Each of Borrower and Lessee agrees that upon any assignment or transfer of the Documents by Lender to any third party, Lender shall have no obligations or liabilities under the Documents, such third party shall be substituted as the lender under the Documents for all purposes and, each of Borrower and Lessee shall look solely to such third party for the performance of any obligations under the Documents or with respect to the Loan.

Section 5.04 WAIVER OF TRIAL BY JURY. EACH OF BORROWER, LESSEE AND LENDER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM FILED BY EITHER PARTY, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THE LOAN, THE DOCUMENTS, OR ANY ALLEGED ACTS OR OMISSIONS OF LENDER IN CONNECTION THEREWITH.

Section 5.05 Miscellaneous. If both the lessor's and lessee's interest under any Lease ever becomes vested in any one person, this Instrument and the lien and security interest created hereby shall not be destroyed or terminated by the application of the doctrine of merger and Lender shall continue to have and enjoy all its rights and privileges as to each separate estate. Upon foreclosure (or transfer of title by power of sale) of this Instrument, none of the Leases shall be destroyed or terminated as a result of such foreclosure (or sale), by application of the doctrine of merger or as a matter of law, unless Lender takes all actions required by law to terminate the Leases as a result of foreclosure (or sale). All of Borrower's and Lessee's covenants and agreements under the Documents shall run with the land and time is of the essence. The provisions of the Documents shall be binding upon each of Borrower and Lessee, and their respective representatives, successors, and assigns including successors in interest to the Property and inure to the benefit of Lender and its successors, substitutes, and assigns. The terms of this Instrument are subject to the non recourse provisions contained in Section 7.01 of the Loan Agreement.

ARTICLE VI - LOCAL LAW PROVISIONS

Section 6.01 LOCAL LAW PROVISIONS

[TO BE INSERTED]

[remainder of page intentionally left blank]

[signatures on following page]

**SIGNATURE PAGE TO _____
MORTGAGE AND SECURITY AGREEMENT**

THUS DONE AND PASSED, on the date first set forth hereinabove, to be effective as set forth herein, in the presence of the undersigned competent witnesses, who hereunto sign their names with the said appearer and me, Notary, after a due reading of the whole.

WITNESSES:

BORROWER:

FELCOR/CSS (SPE), L.L.C., a Delaware limited liability company

By: _____
Name: _____
Title: _____

NOTARY PUBLIC

Notary Bar Identification No.: _____
My Commission expires: _____

SIGNATURE PAGE TO
_____ MORTGAGE AND SECURITY AGREEMENT

THUS DONE AND PASSED, on the date first set forth hereinabove, to be effective as set forth herein, in the presence of the undersigned competent witnesses, who hereunto sign their names with the said appearer and me, Notary, after a due reading of the whole.

WITNESSES:

LESSEE:

DJONT Operations, L.L.C., a Delaware limited liability company

By: _____
Name: _____
Title: _____

NOTARY PUBLIC
Notary Bar Identification No.: _____
My Commission expires: _____

Exhibit A

SCHEDULE OF DEFINED TERMS

As used in this Instrument, the following terms shall have the meaning specified:

Hotel Properties: Along with the Property, the hotel properties securing the Loan, as the same may be released, replaced or modified pursuant to the terms of the Loan Agreement.

Franchise Agreement: The existing franchise/license agreement with the Licensor with respect to the Property as of the date of this Instrument, as the same may be amended from time to time (subject to obtaining Lender's consent to any such amendment), or any extension, renewal, or replacement thereof entered into in accordance with the provisions of Section 4.25 of the Loan Agreement.

Licensor: Promus Hotels, Inc., a Delaware corporation, or in the event Borrower shall enter into a replacement Franchise Agreement in accordance with the provisions of Section 4.25 of the Loan Agreement, the licensor under such replacement license agreement.

Loan Agreement: That certain Mortgage Loan Agreement dated as of the date of this Instrument entered into by and between Borrower and Lender, as the same may be amended, modified, extended, renewed or restated from time to time.

Manager: Collectively, Promus Hotels, Inc., a Delaware corporation, or in the event Borrower shall enter into a replacement Management Agreement in accordance with the provisions of Section 4.25 of the Loan Agreement, the manager under such replacement management agreement.

Management Agreement: The existing management agreement with respect to the Property with the Manager as of the date of this Instrument, as the same may be amended from time to time (subject to obtaining Lender's consent to any such amendment), or any extension, renewal, or replacement thereof entered into in accordance with the provisions of Section 4.25 of the Loan Agreement.

Other Mortgages: Collectively, all of those certain other mortgages or deeds of trust of even date with this Instrument made by Borrower in favor of Lender to secure the Obligations, which encumber the other Hotel Properties, as the same may be amended, supplemented, restated, consolidated or otherwise modified from time to time.

Primary Lease: That certain Lease Agreement dated as of between Borrower, as landlord, and Lessee, as tenant, pursuant to which the Property has been leased to Lessee, as the same may be amended from time to time (subject to obtaining Lender's consent to any such amendment), or any extension, renewal or replacement thereof entered into in accordance with Section 4.10 of the Loan Agreement.

PROMISSORY NOTE

\$120,000,000.00

March 31, 2009

Loan No. 706108165

FOR VALUE RECEIVED, FELCOR/CSS (SPE), L.L.C., a Delaware limited liability company (“**Borrower**”), promises to pay to the order of THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, a New Jersey corporation (“**Lender**”, which shall also mean successors and assigns who become holders of this Note), at Two Ravinia Drive, Suite 1400, Atlanta, Georgia 30346-2110, the principal sum of ONE HUNDRED TWENTY MILLION AND NO/100 U.S. DOLLARS (\$120,000,000.00), or so much thereof as shall be disbursed hereunder or under that certain Loan Agreement of even date herewith by and between Borrower and Lender (the “**Loan Agreement**”) and shall from time to time be outstanding and unpaid, together with interest on the unpaid balance (“**Balance**”) at the rate of nine and two hundredths percent (9.02%) per annum (“**Note Rate**”) from and including the date of the First Disbursement (“**Funding Date**”) until Maturity (defined below). Capitalized terms used without definition shall have the meanings ascribed to them in the Loan Agreement.

1. **Payments.** Principal and interest shall be payable as follows:

(a) Interest from and including the Funding Date to April 5, 2009 shall be due and payable on the Funding Date.

(b) Principal and interest shall be paid in thirty (30) monthly installments of One Million Two Hundred One Thousand Two Hundred Ten and 12/100 Dollars (\$1,201,210.12) each, commencing on May 5, 2009 and continuing on the fifth (5th) day of each succeeding month to and including October 5, 2011; provided that, upon the Second Disbursement, monthly payments of principal and interest shall be recalculated using a Balance of \$120,000,000.00, a 180-month amortization period and the Note Rate. Each payment due date under Paragraphs 1(b) and 1(c) of this Note is referred to as a “**Due Date**”.

(c) Principal and interest shall be paid in thirty (30) monthly installments of One Million Eight Thousand Six Hundred Seventy-Nine and 63/100 Dollars (\$1,008,679.63) each, commencing on November 5, 2011 and continuing on the fifth (5th) day of each succeeding month to and including April 5, 2014.

(d) The entire Obligations (as defined in the Instruments) shall be due and payable on April 5, 2014 (“**Maturity Date**”). “**Maturity**” shall mean the Maturity Date or earlier date that the Obligations may be due and payable by acceleration by Lender as provided in the Documents.

(e) Interest on the Balance for any full month shall be calculated on the basis of a three hundred sixty (360) day year consisting of twelve (12) months of thirty (30) days each. For any partial month, interest shall be due in an amount equal to (i) the Note Rate divided by 360 multiplied by (ii) the number of days any Balance is outstanding through and including the day of payment.

2. **Acceleration and Default Interest.**

(a) **Acceleration.** Upon an Event of Default, Lender may declare the Balance, unpaid accrued interest, the Prepayment Premium (defined below) and all other Obligations immediately due and payable in full.

(b) **Default Rate.** Upon an Event of Default or at Maturity, whether by acceleration (due to a voluntary or involuntary default) or otherwise, the entire Obligations (excluding accrued but unpaid interest if prohibited by law) shall bear interest at the Default Rate. The “**Default Rate**” shall be the lesser of (i) the maximum rate allowed by law or (ii) five percent (5%) plus the greater of (A) the Note Rate or (B) the prime rate (for corporate loans at large United States money center commercial banks) published in the *Wall Street Journal* on the first Business Day (defined below) of the month in which the Event of Default or Maturity occurs and on the first Business Day of every month thereafter. The term “**Business Day**” shall mean each Monday through Friday except for days in which commercial banks are not authorized to open or are required by law to close in New York, New York.

3. **No Usury.** Under no circumstances shall the aggregate amount paid or to be paid as interest under this Note exceed the highest lawful rate permitted under applicable usury law (“**Maximum Rate**”). If under any circumstances the aggregate amounts paid on this Note shall include interest payments which would exceed the Maximum Rate, Borrower stipulates that payment and collection of interest in excess of the Maximum Rate (“**Excess Amount**”) shall be deemed the result of a mistake by both Borrower and Lender and Lender shall promptly credit the Excess Amount against the Balance or refund to Borrower any portion of the Excess Amount which cannot be so credited.

4. **Security and Documents Incorporated.** This Note is the Note referred to and secured by the Instruments and is secured by the Property. Borrower shall observe and perform all of the terms and conditions in the Documents. The Documents are incorporated into this Note as if fully set forth in this Note.

5. **Treatment of Payments.** All payments under this Note shall be made, without offset or deduction, (a) in lawful money of the United States of America at the office of Lender or at the place (and in the manner) Lender may specify by written notice to Borrower, (b) in immediately available federal funds, and (c) if received by Lender prior to 2:00 p.m. local time at such place, shall be credited on that day or else, at Lender’s option, shall be credited on the next Business Day. Initially (unless waived by Lender), and until Lender shall direct Borrower otherwise, Borrower shall make all payments due under this Note in the manner set forth in Section 2.03 of the Loan Agreement. If any Due Date falls on a day which is not a Business Day, then the Due Date shall be deemed to have fallen on the next succeeding Business Day.

6. **Joint and Several Liability.** This Note shall be the joint and several obligation of all makers, endorsers, guarantors and sureties, and shall be binding upon them and their respective successors and assigns and shall inure to the benefit of Lender and its successors and assigns.

7. **Unconditional Payment.** Borrower is and shall be obligated to pay principal, interest and any and all other amounts which became payable hereunder or under the other Documents absolutely and unconditionally and without abatement, postponement, diminution or deduction and without any reduction for counterclaim or setoff. In the event that at any time any payment received by Lender hereunder shall be deemed by a court of competent jurisdiction to have been a voidable preference or fraudulent conveyance under any bankruptcy, insolvency or other debtor relief law, then the obligation to make such payment shall survive any cancellation or satisfaction of this Note or return thereof to Borrower and shall not be discharged or satisfied with any prior payment thereof or cancellation of this Note, but shall remain a valid and binding obligation enforceable in accordance with the terms and provisions hereof, and such payment shall be immediately due and payable upon demand.

8. **Certain Waivers.** Borrower and all others who may become liable for the payment of all or any part of the Obligations do hereby severally waive presentment and demand for payment, notice of dishonor, protest and notice of protest, notice of non-payment and notice of intent to accelerate the maturity hereof (and of such acceleration). No release of any security for the Obligations or extension of time for payment of this Note or any installment hereof, and no alteration, amendment or waiver of any provision of

this Note, the Instrument or the other Documents shall release, modify, amend, waive, extend, change, discharge, terminate or affect the liability of Borrower, and any other who may become liable for the payment of all or any part of the Obligations, under this Note, the Instrument and the other Documents.

9. **WAIVER OF TRIAL BY JURY.** BORROWER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM FILED BY EITHER PARTY, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THE LOAN, THE DOCUMENTS, OR ANY ACTS OR OMISSIONS OF LENDER IN CONNECTION THEREWITH.

10. **Governing Law.** This Note and the obligations arising hereunder shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts made and intended to be performed in such state, without giving effect to principles of conflicts of laws, and any applicable law of the United States of America.

11. **Limitation on Personal Liability.** The terms and provisions of Section 7.01 of the Loan Agreement are hereby incorporated in and made a part of this Note by this reference.

12. **Prepayment.** This Note may be prepaid, in whole or in part, only in accordance with the terms of Section 2.07 of the Loan Agreement.

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[signature page to promissory note]

IN WITNESS WHEREOF, this Note has been executed by Borrower as of the date first set forth above.

BORROWER:

FELCOR/CSS (SPE), L.L.C., a Delaware limited liability company

By: _____
Name: _____
Title: _____

RECOURSE LIABILITIES GUARANTY

FOR VALUE RECEIVED, the sufficiency of which is hereby acknowledged, the undersigned, **FELCOR LODGING TRUST INCORPORATED**, a Maryland corporation, ("**FLTI**"), and **FELCOR LODGING LIMITED PARTNERSHIP**, a Delaware limited partnership, ("**FLLP**"), (FLTI and FLLP, individually and collectively, as the context requires, shall be referred to herein as the "**Guarantor**") absolutely guarantee and agree to pay to **THE PRUDENTIAL INSURANCE COMPANY OF AMERICA** (hereinafter called "**Lender**") at the address designated in the Notes (defined below) for payment thereof or as such address may be changed as provided in the Notes, all limited and full recourse indebtedness of FelCor/CSS (SPE), L.L.C., a Delaware limited liability company ("**Borrower**") under Paragraph 7.02 of the Loan Agreement of even date herewith between Borrower and Lender (the "**Loan Agreement**"), which Loan Agreement governs a loan evidenced by one or more promissory notes in the aggregate original principal amount of up to One Hundred Twenty Million and No/100 Dollars (\$120,000,000), each payable to the order of Lender, and all modifications, renewals and extensions of and substitutions for said promissory notes (said promissory notes and all modifications, renewals and extensions thereof and all substitutions therefor hereinafter collectively, the "**Note**"), together with all interest, attorneys' fees and collection costs provided for in Paragraph 7.02 of the Loan Agreement (all such indebtedness is hereinafter called the "**Recourse Liabilities**"). Guarantor further agrees to pay any and all costs, attorneys' fees and expenses incurred or expended by Lender in collecting any of the Recourse Liabilities or in enforcing any right granted hereunder. Any capitalized term used but not otherwise defined in this Guaranty shall have the meaning ascribed to such term in the Loan Agreement. The term "**Obligations**" as used herein shall have the same meaning as such term is defined in the Instruments.

1. Except as otherwise limited as provided herein, in the event Borrower fails to pay the Recourse Liabilities, Guarantor shall immediately upon written demand of Lender promptly and with due diligence pay for the benefit of Lender all of the Recourse Liabilities.

2. Guarantor expressly waives presentment for payment, demand, notice of demand and of dishonor and nonpayment of the Recourse Liabilities, notice of intention to accelerate the maturity of the Recourse Liabilities or any part thereof, notice of disposition of collateral, notice of acceleration of the maturity of the Recourse Liabilities or any part thereof, protest and notice of protest, diligence in collecting, and the bringing of suit against any other party. Lender shall be under no obligation to notify Guarantor of its acceptance hereof or of any advances made or credit extended on the faith hereof or the failure of Borrower to pay any of the Recourse Liabilities as they mature or any default in the performance of any of the Obligations under the Instrument, or to use diligence in preserving the liability of any person on the Recourse Liabilities or the Obligations or in bringing suit to enforce collection of the Recourse Liabilities or performance of the Obligations. Guarantor waives all defenses given to sureties or guarantors at law or in equity other than the actual payment of the Recourse Liabilities and all defenses based upon questions as to the validity, legality or enforceability of the Recourse Liabilities and/or the Obligations and agrees that Guarantor shall be primarily liable hereunder.

3. Lender, without authorization from or notice to Guarantor and without impairing, modifying, changing, releasing, limiting or affecting the liability of Guarantor hereunder, may from time to time at its discretion and with or without valuable consideration, alter, compromise, accelerate, renew, extend or change the time or manner for the payment of any or all of the Recourse Liabilities, increase or

reduce the rate of interest thereon, take and surrender security, exchange security by way of substitution, or in any way it deems necessary take, accept, withdraw, subordinate, alter, amend, modify or eliminate security, add or release or discharge endorsers, guarantors or other obligors, make changes of any sort whatever in the terms of payment of the Recourse Liabilities, in the Obligations or in the manner of doing business with Borrower, or settle or compromise with Borrower or any other person or persons liable on the Recourse Liabilities or the Obligations on such terms as it may see fit, and may apply all moneys received from the Borrower or others, or from any security held (whether held under a security instrument or not), in such manner upon the Recourse Liabilities (whether then due or not) as it may determine to be in its best interest, without in any way being required to marshal securities or assets or to apply all or any part of such moneys upon any particular part of the Recourse Liabilities. It is specifically agreed that Lender is not required to retain, hold, protect, exercise due care with respect thereto, perfect security interests in or otherwise assure or safeguard any security for the Recourse Liabilities or the Obligations; no failure by Lender to do any of the foregoing and no exercise or non-exercise by Lender of any other right or remedy of Lender shall in any way affect any of Guarantor's obligations hereunder or any security furnished by Guarantor or give Guarantor any recourse against Lender.

4. The liability of Guarantor hereunder shall not be modified, changed, released, limited or impaired in any manner whatsoever on account of any or all of the following: (a) the incapacity, death, disability, dissolution or termination of Guarantor, Borrower, Lender or any other person or entity; (b) the failure by Lender to file or enforce a claim against the estate (either in administration, bankruptcy or other proceeding) of Borrower or any other person or entity; (c) recovery from Borrower or any other person or entity becomes barred by any statute of limitations or is otherwise prevented; (d) any defenses, set-offs or counterclaims which may be available to Borrower or any other person or entity (other than the actual payment of the Obligations); (e) any transfer or transfers of any of the property covered by the Instrument or any other instrument securing the payment of the Note; (f) any modifications, extensions, amendments, consents, releases or waivers with respect to the Note, the Instrument, any other instrument now or hereafter securing the payment of the Note, or this Guaranty; (g) any failure of Lender to give any notice to Guarantor of any default under the Note, the Instrument, any other instrument securing the payment of the Note, or this Guaranty; (h) Guarantor is or becomes liable for any indebtedness owing by Borrower to Lender other than under this Guaranty; or (i) any impairment, modification, change, release or limitation of the liability of, or stay of actions or lien enforcement proceedings against, Borrower, its property, or its estate in bankruptcy resulting from the operation of any present or future provision of the Federal Bankruptcy Code or any other present or future federal or state insolvency, bankruptcy or similar law (all of the foregoing hereinafter collectively called "**applicable Bankruptcy Law**") or from the decision of any court.

5. Lender shall not be required to pursue any other remedies before invoking the benefits of the guaranties contained herein, and specifically it shall not be required to make demand upon or institute suit or otherwise pursue or exhaust its remedies against Borrower or any surety other than Guarantor or to proceed against any security now or hereafter existing for the payment of any of the Recourse Liabilities. Lender may maintain an action on this Guaranty without joining Borrower therein and without bringing a separate action against Borrower.

6. If for any reason whatsoever (including but not limited to ultra vires, lack of authority, illegality, force majeure, act of God or impossibility) the Recourse Liabilities or the Obligations cannot be enforced against Borrower, such unenforceability shall in no manner affect the liability of Guarantor hereunder and Guarantor shall be liable hereunder notwithstanding that Borrower may not be liable for such Recourse Liabilities or such Obligations and to the same extent as Guarantor would have been liable if such Recourse Liabilities or Obligations had been enforceable against Borrower.

7. Guarantor absolutely and unconditionally covenants and agrees that in the event that Borrower does not or is unable to pay the Recourse Liabilities for any reason, including, without limitation, liquidation, dissolution, receivership, conservatorship, insolvency, bankruptcy, assignment for the benefit of creditors, sale of all or substantially all assets, reorganization, arrangement, composition, or readjustment of, or other similar proceedings affecting the status, composition, identity, existence, assets or obligations of Borrower, or the disaffirmance or termination of any of the Recourse Liabilities or Obligations in or as a result of any such proceeding, Guarantor shall pay the Recourse Liabilities and no such occurrence shall in any way affect Guarantor's obligations hereunder.

8. Should the status, structure or composition of Borrower change, this Guaranty shall continue and also cover the Recourse Liabilities of Borrower under its new status, structure or composition according to the terms hereof. This Guaranty shall remain in full force and effect notwithstanding any transfer of any of the property covered by the Instrument.

9. In the event any payment by Borrower to Lender is held to constitute a preference under any applicable Bankruptcy Law, or if for any other reason Lender is required to refund such payment or pay the amount thereof to any other party, such payment by Borrower to Lender shall not constitute a release of Guarantor from any liability hereunder, but Guarantor agrees to pay such amount to Lender upon demand and this Guaranty shall continue to be effective or shall be reinstated, as the case may be, to the extent of any such payment or payments.

10. Guarantor agrees that it shall not have (a) the right to the benefit of, or to direct the application of, any security held by Lender (including the property covered by the Instrument and any other instrument securing the payment of the Note), any right to enforce any remedy which Lender now has or hereafter may have against Borrower, or any right to participate in any security now or hereafter held by Lender, or (b) any defense arising out of the absence, impairment or loss of any right of reimbursement or subrogation or other right or remedy of Guarantor against Borrower or against any security resulting from the exercise or election of any remedies by Lender (including the exercise of the power of sale under the Instrument), or any defense arising by reason of any disability or other defense of Borrower or by reason of the cessation, from any cause, of the liability of Borrower.

11. The payment by Guarantor of any amount pursuant to this Guaranty shall not in any way entitle Guarantor to any right, title or interest (whether by way of subrogation or otherwise) in and to any of the Recourse Liabilities or any proceeds thereof, or any security therefor, unless and until the full amount owing to Lender on the Recourse Liabilities has been fully paid, but when the same has been fully paid Guarantor shall be subrogated as to any payments made by it to the rights of Lender as against Borrower and/or any endorsers, sureties or other guarantors.

12. Notwithstanding any payments made by or for the account of Guarantor on account of the Recourse Liabilities, Guarantor shall not be subrogated to any rights of Lender until such time as Lender shall have received payment of the full amount of all Recourse Liabilities. For the purposes of the preceding sentence only, the Recourse Liabilities shall not be deemed to have been paid in full by foreclosure of the Instrument or by acceptance of a deed in lieu thereof, and Guarantor hereby waives and disclaims any interest which it might have in the property covered by the Instrument or other collateral security for the Recourse Liabilities and the Obligations, by subrogation or otherwise, following foreclosure of the Instrument or Lender's acceptance of a deed in lieu thereof.

13. Guarantor expressly subordinates its rights to payment of any indebtedness owing from Borrower to Guarantor, whether now existing or arising at any time in the future, to the prior right of Lender to receive or require payment in full of the Recourse Liabilities and until payment in full of the Recourse Liabilities (and including interest accruing on the Note after any petition under applicable

Bankruptcy Law, which post-petition interest Guarantor agrees shall remain a claim that is prior and superior to any claim of Guarantor notwithstanding any contrary practice, custom or ruling in proceedings under such applicable Bankruptcy Law generally), Guarantor agrees not to accept any payment or satisfaction of any kind of indebtedness of Borrower to Guarantor or any security for such indebtedness; provided, however, that so long as no Event of Default, or event which with the passage of time or the giving of notice, or both, would constitute an Event of Default, has occurred under the Documents (as such term is defined in the Instrument) this shall not apply to any distributions made (i) to any Guarantor as the holder of an equity interest in Borrower, (ii) in the ordinary course of Borrower's business, and (iii) more than twelve (12) months prior to a default under the Documents. If Guarantor should receive any such payment, satisfaction or security for any indebtedness of Borrower to Guarantor, Guarantor agrees forthwith to deliver the same to Lender in the form received, endorsed or assigned as may be appropriate for application on account of, or as security for, the Recourse Liabilities and until so delivered, agrees to hold the same in trust for Lender.

13. Under no circumstances shall the aggregate amount paid or agreed to be paid hereunder exceed the highest lawful rate permitted under applicable usury law (the "**Maximum Rate**") and the payment obligations of Guarantor hereunder are hereby limited accordingly. If under any circumstances, whether by reason of advancement or acceleration of the unpaid principal balance of the Note or otherwise, the aggregate amounts paid hereunder shall include amounts which by law are deemed interest and which could exceed the Maximum Rate, Guarantor stipulates that payment and collection of such excess amounts shall have been and will be deemed to have been the result of a mistake on the part of both Guarantor and Lender, and Lender shall promptly credit such excess (only to the extent such interest payments are in excess of the Maximum Rate) against the unpaid principal balance of the Note, and any portion of such excess payments not capable of being so credited shall be refunded to Guarantor. The term "**applicable law**" as used in this paragraph shall mean the laws of the Property State (as such term is defined in the Instrument) is located or the laws of the United States, whichever laws allow the greater rate of interest, as such laws now exist or may be changed or amended or come into effect in the future.

14. Guarantor hereby represents, warrants and covenants to and with Lender as follows: (a) the making of the Loan by Lender to Borrower is and will be of direct interest, benefit and advantage to Guarantor; (b) Guarantor is solvent, is not bankrupt and has no outstanding liens, garnishments, bankruptcies or court actions which could render Guarantor insolvent or bankrupt, and there has not been filed by or against Guarantor a petition in bankruptcy or a petition or answer seeking an assignment for the benefit of creditors, the appointment of a receiver, trustee, custodian or liquidator with respect to Guarantor or any substantial portion of Guarantor's property, reorganization, arrangement, rearrangement, composition, extension, liquidation or dissolution or similar relief under applicable Bankruptcy Law; (c) all reports, financial statements and other financial and other data which have been or may hereafter be furnished by Guarantor to Lender in connection with this Guaranty are or shall be true and correct in all material respects and do not and will not omit to state any fact or circumstance necessary to make the statements contained therein not misleading and do or shall fairly represent the financial condition of Guarantor as of the dates and the results of Guarantor's operations for the periods for which the same are furnished, and no material adverse change has occurred since the dates of such reports, statements and other data in the financial condition of Guarantor; (d) the execution, delivery and performance of this Guaranty do not contravene, result in the breach of or constitute a default under any mortgage, deed of trust, lease, promissory note, loan agreement or other contract or agreement to which Guarantor is a party or by which Guarantor or any of its properties may be bound or affected and do not violate or contravene any law, order, decree, rule or regulation to which Guarantor is subject; (e) there are no judicial or administrative actions, suits or proceedings pending or, to the best of Guarantor's knowledge, threatened against or affecting Guarantor or involving the validity, enforceability or priority of this Guaranty; and (f)

this Guaranty constitutes the legal, valid and binding obligation of Guarantor enforceable in accordance with its terms.

15. If financial statements of Guarantor are not publicly available, Guarantor will deliver to Lender, as soon as available and in no event later than one hundred twenty (120) days after the end of Borrower's fiscal year, financial statements of Guarantor in scope and detail satisfactory to Lender. The statements shall be sworn and certified as to accuracy by Guarantor.

16. Where two or more persons or entities have executed this Guaranty, unless the context clearly indicates otherwise, all references herein to "**Guarantor**" shall mean the guarantors hereunder or either or any of them. All of the obligations and liability of said guarantors hereunder shall be joint and several. Suit may be brought against said guarantors, jointly and severally, or against any one or more of them or less than all of them, without impairing the rights of Lender against the other or others of said guarantors; and Lender may compound with any one or more of said guarantors for such sums or sum as it may see fit and/or release a portion of said guarantors from all further liability to Lender for any Recourse Liabilities without impairing the right of Lender to demand and collect the balance of such Recourse Liabilities from the other or others of said guarantors not so compounded with or released; but it is agreed among said guarantors themselves, however, that such compounding and release shall in nowise impair the rights of said guarantors as among themselves.

17. Except as otherwise provided herein, the rights of Lender are cumulative and shall not be exhausted by its exercise of any of its rights hereunder or otherwise against Guarantor or by any number of successive actions until and unless all Recourse Liabilities have been paid and each of the obligations of Guarantor hereunder has been performed.

18. All property of Guarantor now or hereafter in the possession or custody of or in transit to Lender for any purpose, including safekeeping, collection or pledge, for the account of Guarantor, or as to which Guarantor may have any right or power, shall be held by Lender subject to a lien and security interest in favor of Lender to secure payment and performance of all obligations and liabilities of Guarantor to Lender hereunder. Guarantor hereby transfers and conveys to Lender any and all balances, credits, deposits, accounts, items and moneys of Guarantor now or hereafter in the possession or control of or otherwise with Lender. Lender is hereby granted a first lien upon, and security interest in, all property of Guarantor of every kind or description now or hereafter in possession or control of Lender for any purpose, including all dividends and distributions on or other rights in connection therewith. The balance of every account of Guarantor with, and each claim of Guarantor against, Lender existing from time to time shall be subject to a lien and subject to set off against any and all liabilities of Guarantor to Lender, and Lender may, at any time and from time to time at its option and without notice, appropriate and apply toward the payment of any of such liabilities the balance of each such account or claim of Guarantor against Lender.

19. Any notice or communication required or permitted hereunder shall be given in writing, sent by (a) personal delivery, or (b) expedited delivery service with proof of delivery, or (c) United States mail, postage prepaid, registered or certified mail, sent to the intended addressee at the address shown below, or to such other address or to the attention of such other person as hereafter shall be designated in writing by the applicable party sent in accordance herewith. Any such notice or communication shall be deemed to have been given and received either at the time of personal delivery or, in the case of delivery service or mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of telegram, telex or telecopy, upon receipt.

20. This Guaranty shall be deemed to have been made under and shall be governed by the laws of the State of New York in all respects.

21. This Guaranty may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.

22. This Guaranty may only be modified, waived, altered or amended by a written instrument or instruments executed by the party against which enforcement of said action is asserted. Any alleged modification, waiver, alteration or amendment which is not so documented shall not be effective as to any party.

23. The books and records of Lender showing the accounts between Lender and Borrower shall be admissible in any action or proceeding hereon as prima facie evidence of the items set forth herein.

24. Guarantor waives and renounces any and all homestead or exemption rights Guarantor may have under the Constitution or the laws of any state as against Guarantor, and does transfer, convey and assign to Lender a sufficient amount of such homestead or exemption as may be allowed, including such homestead or exemption as may be set apart in bankruptcy, to pay the Recourse Liabilities. Guarantor hereby directs any trustee in bankruptcy having possession of such homestead or exemption to deliver to Lender a sufficient amount of property or money set apart as exempt to pay the Recourse Liabilities.

25. The terms, provisions, covenants and conditions hereof shall be binding upon Guarantor and the heirs, devisees, representatives, successors and assigns of Guarantor and shall inure to the benefit of Lender and all transferees, credit participants, successors, assignees and/or endorsees of Lender. Within this Guaranty, words of any gender shall be held and construed to include any other gender and words in the singular number shall be held and construed to include the plural and words in the plural number shall be held and construed to include the singular, unless the context otherwise requires. A determination that any provision of this Guaranty is unenforceable or invalid shall not affect the enforceability or validity of any other provision and any determination that the application of any provision of this Guaranty to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.

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[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Guaranty as of the ____ day of March, 2009.

GUARANTOR:

FLTI:

FELCOR LODGING TRUST INCORPORATED, a Maryland corporation

By: _____
Name: _____
Title: _____

FLLP:

FELCOR LODGING LIMITED PARTNERSHIP, a Delaware limited partnership

By: _____
Name: _____
Title: _____

The address of Guarantor is:
545 E. John Carpenter Freeway, Suite 1300,
Irving, Texas 75062

The address of Lender is:
The Prudential Insurance Company of America
Prudential Asset Resources, Inc.
2100 Ross Avenue, Suite 2500
Dallas, Texas 75201
Attention: Vice President, Corporate Counsel

Certification Pursuant to Section 302 of Sarbanes-Oxley Act of 2002

I, Richard A. Smith, certify that:

1. I have reviewed this quarterly report on Form 10-Q of FelCor Lodging Trust Incorporated;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 8, 2009

/s/Richard A. Smith
Richard A. Smith
Chief Executive Officer

Certification Pursuant to Section 302 of Sarbanes-Oxley Act of 2002

I, Andrew J. Welch, certify that:

1. I have reviewed this quarterly report on Form 10-Q of FelCor Lodging Trust Incorporated;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 8, 2009

/s/Andrew J. Welch
Andrew J. Welch
Chief Financial Officer

Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

In connection with the quarterly report of FelCor Lodging Trust Incorporated (the "Registrant") on Form 10-Q for the three months ended March 31, 2009, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned hereby certifies, in the capacity as indicated below and pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Registrant.

May 8, 2009

/s/Richard A. Smith
Richard A. Smith
Chief Executive Officer

Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

In connection with the quarterly report of FelCor Lodging Trust Incorporated (the "Registrant") on Form 10-Q for the three months ended March 31, 2009, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned hereby certifies, in the capacity as indicated below and pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Registrant.

May 8, 2009

/s/Andrew J. Welch
Andrew J. Welch
Chief Financial Officer